

NO. 67133

FILED

Case No. PC 11-0790

Dept. No. ITC

2014 DEC -4 AM 11:44

LACEY DONALDSON
DISTRICT COURT CLERK
[Signature]

IN THE Sixth JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSONS

FILED

DEC 30 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

* * * * *

FERRIE T. VOLPICELLI,)
Plaintiff,)
-VS-)
J.D.C., et al)
Defendant)

NOTICE OF APPEAL

NOTICE IS GIVEN that Plaintiff, FERRIE T. VOLPICELLI,
in pro se, hereby appeals to the Nevada Supreme Court the
ORDER DISMISSING CASE
as filed/entered on the 4th day of December, 2014,
(complete if applicable) and the DECISION ON THE PENDING
appeal ^{MAILED}, as filed/entered on the 12 day of
November, 2014, in the above-entitled Court.

Dated this 2nd day of December, 2014.

[Signature]
FERRIE VOLPICELLI # 72504
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Plaintiff In Pro Se

RECEIVED
DEC 19 2014
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

LCC LL FORM 26.062

14-47444

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the below address(es) on this 2nd day of December, 2014, by placing same in the U.S. Mail via prison law library staff:

Nevada Attorney General
100 N. Carson St
Carson City, NV 89201

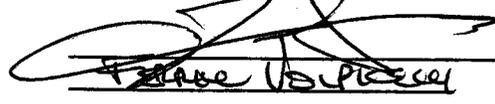

Frank J. Pires # 72565
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Plaintiff In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE OF APPEAL filed in District Court Case No. PC 150770 does not contain the social security number of any person.

Dated this 2nd day of December, 2014.


Frank J. Pires

Plaintiff In Pro Se

FILED

2014 DEC 18 AM 8:41

**LACEY DONALDSON
DISTRICT COURT CLERK**
[Signature]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Case No. PI 11-0790
Dept No. 2

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

FERRILL J. VOLPICELLI,)
Appellant,)
Vs.)
N.D.O.C, et al.)
Respondents)
/

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:
Ferrill J. Volpicelli

2. Identify the judge issuing the decision, judgment or order appealed from:
Honorable Michael R. Montero

3. Identify each appellant and the name and address of counsel for each appellant: (the use of et al. to denote parties is prohibited):
Pro Per appellant: Ferrill J. Volpicelli
Inmate No. 79565
1200 Prison Rd./LCC
Lovelock, NV 89419
Pro Per for Petitioner

4. Identify each respondent and the name and address of counsel (the use of et al. to denote parties is prohibited):
The State of Nevada Department of Corrections
Office of the Attorney General
Paul T. Young
100 N. Carson St.
Carson City, NV 89710

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42(attach a copy of any district court order granting such permission):
No attorney for appellant; pro per:

6. Indicate whether appellant was represented by appointed or retained counsel in the district court:
No: Pro Per

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:
No: Pro per

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:
There was a Motion for Leave to Proceed in Forma Pauperis filed 6/30/11 in the Lake Township Justice Court
There was a Motion for Leave to Proceed on Appeal in Forma Pauperis and Waive Appeal Bond filed on 10/19/11 in the Lake Township Justice Court
There are no Orders filed from the Lake Township Justice Court

9. Indicate the date the proceedings commenced in the district court (e.g. date of complaint, indictment, information or petition was filed):
Justice Court Proceedings of Notice of Appeal filed in District Court on 10/24/11

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court: There was a small claims Petition filed in the Lake Township Justice Court on 6/30/11. There was a Judgment denying the Appellants Petition filed in Lake Township Justice Court on 10/17/11. The Appellant filed a Notice of Appeal on 10/19/14. The case was transferred on Appeal to the District Court on 10/24/11. The District Court entered an Order dismissing the Justice Court Appeal on November 4, 2014, The Appellant then Appealed the District Court Order to the Supreme Court on December 4, 2014.

/

/

/

/

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

- 11. Indicate whether the case has previously been the subject of an appel to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding: Not previously appealed to the Supreme Court, only appealed from Justice Court to District Court, where the District Court dismissed the appeal.
- 12. Indicate whether this appeal involves child custody or visitation: No
- 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: No, Order to dismiss appeal filed 11/4/14.

Dated this 18th day of December, 2014

Deputy Court Clerk 
Dawn Bequette
PO Box 820
Lovelock, NV 89419
(775) 273-2410

Case #: PI-11-0790

Judge: MONTERO, MICHAEL R

Date Filed: 10/24/11 Department: 02

Case Type: APLWCT APPEAL FROM LOWER COURT CASE

Title/Caption: Ferrill Volpicelli
vs
NDOC

Defendant(s)
NDOC

Attorney(s)
ATTORNEY GENERAL

Plaintiff(s)
VOLPICELLI, FERRILL

Attorney(s)
PRO PER

Disp/Judgment: MTDS Date: 03/07/14

Filings:

Date	Pty	Filing	Fees
10/24/11	C	JUSTICE COURT PROCEEDINGS	FILED
11/14/11	C	ORDER	FILED
11/14/11	C	NOTICE OF ENTRY OF ORDER	FILED
11/14/11	C	AFFIDAVIT OF MAILING	FILED
11/23/11	P	APPELLANT'S MOTION FOR ENLARGEMENT OF TIME	FILED
12/05/11	P	PLAINTIFF APPELLANTS' MOTION FOR TRANSCRIPTS FOR P APPEAL AT STATES EXPENSE	FILED
10/10/12	P	REQUEST FOR SUBMISSION OF MOTION	FILED
8/21/13	C	ORDER	FILED
8/21/13	C	NOTICE OF ENTRY OF ORDER	FILED
9/16/13	P	APPELLANT'S MOTION FOR AN ENLARGEMENT OF TIME IN P WHICH TO FILE "APPELLANT'S OPENING BRIEF"	FILED
10/18/13	P	REQUEST FOR SUBMISSION OF MOTION	FILED
11/07/13	C	ORDER	FILED
11/07/13	C	NOTICE OF ENTRY OF ORDER	FILED
11/07/13	C	AFFIDAVIT OF MAILING	FILED
11/20/13	P	PLAINTIFF'S MOTION TO ALTER-AMEND A JUDGMENT	FILED
3/07/14	D	RESPONDENTS' MOTION TO DISMISS	FILED
3/18/14	P	APPELLANT'S OPPOSITION TO RESPONDENTS' MOTION TO P DISMISS APPEAL	FILED
3/25/14	D	REPLY TO APPELLANT'S OPPOSITION TO RESPONDENT'S D MOTION TO DISMISS	FILED
3/25/14	D	REQUEST FOR SUBMISSION ON RESPONDENT'S MOTION TO D DISMISS	FILED
8/28/14	C	ORDER	FILED
8/28/14	C	NOTICE OF ENTRY OF ORDER	FILED
9/10/14	P	RECORD ON APPEAL PURSUANT TO JRCP 74(C)	FILED
10/03/14	P	REQUEST FOR SUBMISSION OF MOTION	FILED
11/04/14	C	ORDER	FILED
11/04/14	C	NOTICE OF ENTRY OF ORDER	FILED
11/14/14	P	APPELLANT'S MOTION TO ALTER OR AMEND JUDGMENT-ORDER, P NOVEMBER 4, 2014, NRCP 59(E)	FILED
12/01/14	P	REQUEST FOR SUBMISSION OF MOTION	FILED
12/04/14	P	NOTICE OF APPEAL	FILED
12/18/14	C	CASE APPEAL STATEMENT	FILED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

CASE NO. PI 11-0790

DEPT. NO. II

FILED

2014 NOV -4 AM 9:18

LACEY DONALDSON
DISTRICT COURT CLERK



IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

-000-

FERRILL J. VOLPICELLI,

Appellant,

vs.

ORDER

NEVADA DEPARTMENT OF
CORRECTIONS, et al.,

Respondents.

Appellant Volpicelli filed a pleading titled *Record on Appeal Pursuant to JCRP 74(c)* on September 10, 2014. Subsequently, on October 3, 2014, Volpicelli filed a *Request for Submission of Motion*.

In an *Order* issued August 25, 2014, this Court granted Volpicelli leave to submit the record of the proceedings below within 60 days. The *Order* clearly stated that failure to submit a record that complied with the requirements set out in the Justice Court Rules of Civil Procedure would result in the dismissal of this action.

In response to the above *Order*, Volpicelli filed a record he believes complies with JCRCP 74(c). JCRCP 74(c) provides that “if no report of the evidence or proceedings at ... a trial was made, or if a transcript is unavailable, the appellant may prepare a statement of

1 the evidence or proceedings from the best available means, including appellant's
2 recollection." If such statement is prepared, it "shall be served on the respondent, who may
3 serve objections or propose amendments thereto within 10 days after service." JCRCP
4 74(c). Subsequently, the "statement and any objections or proposed amendments shall be
5 submitted to the justice court for settlement and approval." JCRCP 74(c). Upon settlement
6 and approval by the justice court, the clerk of the justice court shall include the statement
7 in the district court's appeal record. JCRCP 74(c).

8 Volpicelli's pleading does not meet the requirements of Rule 74(c). The pleading
9 constitutes Volpicelli's unilateral account of the proceedings below. Volpicelli's version of
10 events does not appear to have been provided to opposing counsel prior to filing the
11 pleading as required by the Rule. Furthermore, and most importantly, the Justice Court did
12 not approve Volpicelli's statement of proceedings, nor was the statement filed in District
13 Court by the Justice Court Clerk. Hence, Volpicelli has again failed to provide a record of
14 the proceedings below to this Court as required and defined by Rule 74.

15 Volpicelli's repeated failure to comply with the Rules warrants dismissal; therefore,
16 the appeal is DISMISSED.¹ See JCRCP 76.

17 IT IS SO ORDERED.

18 DATED: November 3, 2014.

19
20 
21 HONORABLE MICHAEL R. MONTERO
DISTRICT JUDGE

22 ¹ In light of the dismissal for failure to provide the record below, Volpicelli's *Motion for an Enlargement of Time in which to File*
23 *"Appellant's Opening Brief,"* retroactively filed on September 16, 2013, is DENIED as MOOT.



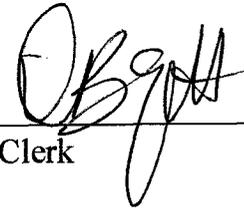
CERTIFICATE OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

I hereby certify that I am an employee of the Pershing County District Court Clerk's Office and am not a party to, nor interested in, this action; and that on November 4, 2014, I caused to be served a true and correct copy of the enclosed **ORDER** upon the following parties:

Ferrill J. Volpicelli #79565
Lovelock Correctional Center
1200 Prison Rd.
Lovelock, NV 89419
Via US Mail

Paul T. Young
Deputy Attorney General
100 N. Carson St.
Carson City, NV 89701
Via US Mail



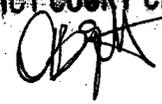
Deputy Clerk



FILED

2014 NOV -6 AM 9:10

**LACEY DONALDSON
DISTRICT COURT CLERK**



CASE NO. PI 11-0790
DEPT. NO. II

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

FERRILL J. VOLPICELLI,
Appellant,

**NOTICE OF ENTRY
OF ORDER**

vs.

NEVADA DEPARTMENT OF
CORRECTIONS, et al.,
Respondents.

PLEASE TAKE NOTICE that on November 4, 2014, the Court
entered an order in this matter, a true and correct copy of which is
attached to this notice.

DATED: November 4, 2014

(Seal)

Lacey Donaldson
Clerk of Court

By  Deputy

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

CASE NO. PI 11-0790

DEPT. NO. II

FILED

2014 NOV -4 AM 9:11

LACEY DONALDSON
DISTRICT COURT CLERK

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

-o0o-

FERRILL J. VOLPICELLI,

Appellant,

vs.

ORDER

NEVADA DEPARTMENT OF
CORRECTIONS, et al.,

Respondents.

Appellant Volpicelli filed a pleading titled *Record on Appeal Pursuant to JCRP 74(c)* on September 10, 2014. Subsequently, on October 3, 2014, Volpicelli filed a *Request for Submission of Motion*.

In an *Order* issued August 25, 2014, this Court granted Volpicelli leave to submit the record of the proceedings below within 60 days. The *Order* clearly stated that failure to submit a record that complied with the requirements set out in the Justice Court Rules of Civil Procedure would result in the dismissal of this action.

In response to the above *Order*, Volpicelli filed a record he believes complies with JCRCP 74(c). JCRCP 74(c) provides that "if no report of the evidence or proceedings at ... a trial was made, or if a transcript is unavailable, the appellant may prepare a statement of

1 the evidence or proceedings from the best available means, including appellant's
2 recollection." If such statement is prepared, it "shall be served on the respondent, who may
3 serve objections or propose amendments thereto within 10 days after service." JCRCP
4 74(c). Subsequently, the "statement and any objections or proposed amendments shall be
5 submitted to the justice court for settlement and approval." JCRCP 74(c). Upon settlement
6 and approval by the justice court, the clerk of the justice court shall include the statement
7 in the district court's appeal record. JCRCP 74(c).

8 Volpicelli's pleading does not meet the requirements of Rule 74(c). The pleading
9 constitutes Volpicelli's unilateral account of the proceedings below. Volpicelli's version of
10 events does not appear to have been provided to opposing counsel prior to filing the
11 pleading as required by the Rule. Furthermore, and most importantly, the Justice Court did
12 not approve Volpicelli's statement of proceedings, nor was the statement filed in District
13 Court by the Justice Court Clerk. Hence, Volpicelli has again failed to provide a record of
14 the proceedings below to this Court as required and defined by Rule 74.

15 Volpicelli's repeated failure to comply with the Rules warrants dismissal; therefore,
16 the appeal is DISMISSED.¹ See JCRCP 76.

17 IT IS SO ORDERED.

18 DATED: November 3, 2014.

19
20 
HONORABLE MICHAEL R. MONTERO
DISTRICT JUDGE

21
22 ¹ In light of the dismissal for failure to provide the record below, Volpicelli's *Motion for an Enlargement of Time in which to File*
23 *"Appellant's Opening Brief,"* retroactively filed on September 16, 2013, is DENIED as MOOT.

CERTIFICATE OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

I hereby certify that I am an employee of the Pershing County District Court Clerk's Office and am not a party to, nor interested in, this action; and that on November 4, 2014, I caused to be served a true and correct copy of the enclosed **ORDER** upon the following parties:

Ferrill J. Volpicelli #79565
Lovelock Correctional Center
1200 Prison Rd.
Lovelock, NV 89419
Via US Mail

Paul T. Young
Deputy Attorney General
100 N. Carson St.
Carson City, NV 89701
Via US Mail



Deputy Clerk



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Case No. PI 11-0790

Dept. No. 2

IN THE SIXTH JUDICIAL DISTRICT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

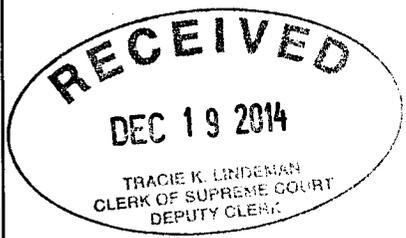
FERRILL J. VOLPICELLI,)
Appellant,)
vs.)
NEVADA DEPARTMENT)
OF CORRECTIONS,)
Respondent.)

CERTIFICATE

State of Nevada)
: ss.
County of Pershing)

I, Lacey Donaldson, County Clerk, do hereby certify that the following are true and correct copies of the original documents in the above-entitled case, which was appealed to the Supreme Court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Lovelock, Nevada, this 18th day of December, 2014.



Lacey Donaldson
County Clerk

By [Signature]
Deputy Clerk