

FERRIL VOLPICELLI
#565 LCC BOX 359
LOVELOCK NV 89419
APPELLANT
PROPER PERSON
RECEIVED/ENTERED

IN THE SUPREME COURT OF THE STATE OF NEVADA
OCT 21 2004

FERRIL JOSEPH VOLPICELLI,
Appellant,

JANETTE M. BLOOM
CLERK OF SUPREME COURT

No. 43203

✓

THE STATE OF NEVADA,
Respondent,

MOTION FOR LEAVE
ACCORDING TO NRS 46(b) **FILED**

NOV 5 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
DEPUTY CLERK

NATURE OF PLEADING

APPELLANT SEEKS LEAVE FROM THIS COURT IN ORDER
TO APPEAR IN PROPER PERSON AND FILE A WRITTEN
BRIEF AND/OR PAPERS, IN ACCORDANCE WITH THE
NEVADA RULES OF APPELLATE PROCEDURE, Rule 46(b).

STATEMENT OF FACTS

ON 19 APRIL, 2004, APPELLANT (DEFENDANT IN
CASE CR03-1263) FILED NOTICE OF APPEAL AND
REQUEST FOR APPOINTMENT OF COUNSEL. ON 11 JUNE
2004, MARY LOU WILSON ESQ FILED NOTICE OF
APPEARANCE AND REQUEST FOR COURT'S TRANSCRIPTS
OF PROCEEDINGS, FOLLOWED BY A DCKETING STATEMENT
CRIMINAL APPEALS DOCUMENT ON 15 JUNE, 2004.
UPON APPELLANT'S RECEIPT OF THE COUNSEL'S FILING,
APPELLANT SENDS LETTER OF INTRODUCTION ON OR

1

RECEIVED
OCT 21 2004
CLERK OF SUPREME COURT
By _____
DEPUTY CLERK

11-1049A

ABOUT 22 JUNE, 2004. APPELLANT'S LETTER SPECIFICALLY REQUESTED COMMUNICATION WITH MS. WILSON AND TO 'WORK CLOSELY' WITH COUNSEL. FOLLOWING COUNTLESS ATTEMPTS BY PLAINTIFF TO COMMUNICATE WITH MS. WILSON TELEPHONICALLY, AND ALL TO NO AVAIL, ON 24 JUNE, 2004, APPELLANT FURTHERS HIS QUEST TO REACH COUNSEL BY LETTER. APPELLANT WISHED TO DISCUSS ISSUES RELEVANT TO INEFFECTUAL ASSISTANCE OF TRIAL COUNSEL, PROSECUTORIAL MISCONDUCT AND ABUSE OF DISCRETION BY THE DISTRICT COURT. TO THIS, APPELLANT ALSO REQUESTED COURT TRANSCRIPTS SO AS TO INTERESTINGLY RELATE ISSUES TO MS. WILSON ON APPEAL.

ON 10 JULY, 2004, AGAIN, APPELLANT PURSES A WRITTEN LETTER OF REQUEST TO DISCUSS THE FOREGOING MATTERS WITH COUNSEL. ON OR ABOUT 14 JULY, 2004 APPELLANT RECEIVES THE PREPARED AND FILED OPENING BRIEF FROM MS. WILSON. IN RESPONSE, APPELLANT SUBMITS A LETTER DATED 18 JULY, 2004, TO COUNSEL, REQUESTING CONSIDERATION BE GIVEN TO ISSUES NOT CONTAINED IN SAID OPENING BRIEF. ON 6 AUGUST, 2004, APPELLANT RECEIVES THE STATES ANSWER TO OPENING BRIEF. WITHOUT CONSULTING APPELLANT, MS. WILSON, ON OR ABOUT 11 AUGUST, 2004, FILES A NOTICE OF ELECTION NOT TO FILE A REPLY BRIEF- DESPITE APPELLANT'S PAVSE AND CONCERNS REGARDING THE DEFICIENCY OF THE APPEAL. CONCOMITANTLY,

MS. WILSON FINALLY RESPONDS TO APPELLANT WITH A LETTER WHICH DID NOT ADDRESS ISSUES PREVIOUSLY BROUGHT TO COUNSEL'S ATTENTION. IN UTTER FRUSTRATION, PLAINTIFF SENDS MS. WILSON A VOLUMINOUS PACKET OF DOCUMENTS AND PAPERS, RELEVANT TO APPEALABLE ISSUES, AND CONVENIENTLY AVERSED BY COUNSEL. ON 24 APRIL, 2004, APPELLANT FOLLOWS UP WITH A LETTER RELEVANT TO APPEAL ISSUES OF IMPORTANCE AS WELL AS OTHER MATTERS PERTINENT TO THE UNDERLYING DISTRICT COURT ACTION.

ON 5 SEPTEMBER, 2004, MS. WILSON REPLYS WITH A DISAPPOINTING LETTER PURPORTING NO FURTHERANCE OF PROFFERING ADDITIONAL ISSUES ON THE APPEAL. ON 10 SEPTEMBER, 2004, APPELLANT REPLYS WITH A LETTER EXPRESSING DISTRUST AND BRIEFLY TOUCHING ON ONE OF THE MANY ISSUES WHICH SHOULD HAVE BEEN ADDRESSED IN DIRECT APPEAL.

ON OR ABOUT 7 OCTOBER, 2004, APPELLANT TRANSFERS TO LOVELOCK CORRECTIONAL CENTER WHERE HE FINALLY HAS MEANINGFUL ACCESS TO LAW RESOURCES, AND PREPARES THIS MOTION.

Argument

APPELLANT ASSERTS THE NEED FOR LEAVE TO APPEAR IN PRO PER IS EXTREMELY NECESSARY IN

ORDER TO EXPAND THE APPELLANT'S RECORD AND INCLUDE CLAIMS THAT WERE RECKLESSLY OVERLOOKED BY HIS NEW APPEAL COUNSEL, MARY LOU WILSON. IT IS APPELLANT'S CONTENTION THAT HIS APPEAL COUNSEL WAS INEFFECTIVE FOR NOT ALLOWING HER CLIENT TO PARTAKE, AND/OR INCLUDE GROUNDS IN HIS OPENING BRIEF WHICH WERE OF EXTREME IMPORTANCE. IN ADDITION, MS. WILSON'S FAILURE TO RAISE A CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL WAS PREJUDICIAL ERROR OF THE MOST INTUOUS KIND. WHEN A STATE PRISONER HAS PROCEDURALLY DEFAULTED CLAIM BY VIOLATING A STATE PROCEDURAL RULE, WHICH IS TAUGHT NO FAULT OF HIS OWN, BUT THE DIRECT PROXIMATE CAUSE OF AN ERRANT APPEAL ATTORNEY, THEN EXCUSABLE NEGLIGENCE SHOULD BE ALLOCATED TO THE STATE PRISONER AND APPELLANT COUNSEL DEEMED TO BE INEFFECTIVE. IN MCKAGUE V WITLEY, 912 P2d 255 (1996), THIS COURT IMPLICITLY ADOPTED THE REASONING WHICH THE U.S. SUPREME COURT HAS APPLIED TO FEDERAL HABEAS PROCEEDINGS. THE SUPREME COURT CONCLUDED: IF THE PROCEDURAL DEFAULT IS THE RESULT OF INEFFECTIVE COUNSEL, THE SIXTH AMENDMENT ITSELF REQUIRES THAT THE RESPONSIBILITY FOR THE DEFAULT BE

IMPUTED TO THE STATE.

MURRAY V CARLIER 477 US 474, 106 S Ct 2639, (1992)
IN OTHER WORDS, IT IS NOT THE GRAVITY OF THE
ATTORNEYS' ERROR THAT MATTERS, BUT THAT IT
CONSTITUTES A VIOLATION OF PETITIONERS' RIGHT
TO EFFECTIVE COUNSEL SO THAT THE ERROR
MUST BE SEEN AS AN EXTERNAL FACTOR,
IE 'IMPUTED TO THE STATE'. WHERE A
PETITIONER DEFAULTS A CLAIM AS A RESULT
OF THE DENIAL OF THE RIGHT TO EFFECTIVE
ASSISTANCE OF COUNSEL, THE STATE, WHICH IS RESPONSIBLE
FOR THE DENIAL AS A CONSTITUTIONAL MATTER, MUST
BEAR THE COST OF ANY RESULTING DEFAULT AND THE
HARM TO STATE INTERESTS THAT FEDERAL HABEAS
REVIEW ENTAILS.

HERE, APPELLANT IS SEEKING LEAVE TO SUPPLEMENT
HIS OPENING BRIEF AND NOT SUPPANT IT SO AS
TO PRESENT GROUNDS FOR HIS POST-CONVICTION PETITION
OR ANY SUBSEQUENT PETITION THAT MAY BE FILED
IN FEDERAL COURT.

REPRESENTATION OF A CRIMINAL DEFENDANT AT ANY
STAGE ENTAILS CERTAIN BASIC DUTIES OF COUNSEL.
THIS INCLUDES THE FUNCTION 'TO ASSIST THE DEFENDANT'.
HENCE, COUNSEL OWES THE CLIENT A DUTY OF LOYALTY,
AND A DUTY TO AVOID CONFLICTS OF INTEREST.

CUYLER V SULLIVAN, 446 US 641, 107 S Ct, 2008 (1980)

- From counsel's function as assistant to the defendant
Derive the prosecutive duty to advocate the
Defendant's cause and the more particular
duties to consult with the Defendant on
important decisions, as well as keep him
informed of important developments in the
course of his case. See *Strickland v*
Washington, 46 US 657, 104 S Ct 2052, (1984).
For that reason, it is Appellate position in
the case sub voce that the Appellate Counsel
works ineffective for failing to allow Defendant
opportunity to assist in his own Defense, and/or
input into the contents of his opening brief.
Moreover, the Appellant sought to include
a list of the following grounds, including,
but not limited to:
- INSUFFICIENT INDICEMENT ISSUES ON DEFECTS THEREOF
 - D.A. WITHHOLDING EXCULPATORY EVIDENCE
 - PERJURED TESTIMONY BY CONFIDENTIAL AND INVESTIGATORS
 - INSUFFICIENT OR EVASIVE JURY INSTRUCTIONS
 - PERSISTENT TO FINDING OF AGGRAVATED BATTERY
 - SELECTIVE AND VINDICTIVE PROSECUTION
 - INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
 - DISTRICT COURT ABUSE OF DISCRETION AT PRE TRIAL
TRIAL AND SENTENCING
 - PROSECUTORIAL AND INVESTIGATIVE MISCONDUCT

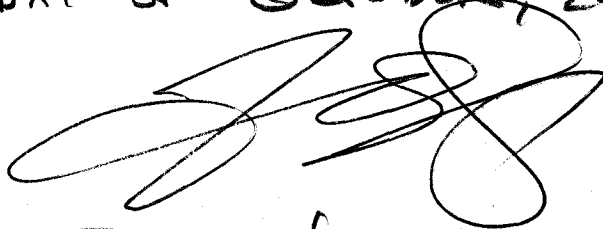
APPELLANT'S COUNSEL'S FAILURE TO RAISE THE
AFOREMENTIONED GROUNDS OBVIATED APPELLANT'S
OPPORTUNITY TO DEMONSTRATE CUMULATIVE ERROR.
MOREOVER, THE DENIAL OR CONSTRUCTIVE DENIAL OF
ASSISTANCE OF COUNSEL ALTOGETHER IS LEGALLY PRESUMED
TO RESULT IN PREJUDICE, THE RIGHT TO A FAIR TRIAL
& OTHER DUE PROCESS VIOLATIONS AFFRONTED A
DEFENDANT UNDER EQUAL PROTECTION OF THE LAW -
BOTH STATE & FEDERAL CONSTITUTIONALLY.

CONCLUSION

APPELLANT PLEADS THIS COURT TO GRANT HIM
LEAVE TO FILE PAPERS IN PRO PER, AND/OR
ALLOW HIM THE OPPORTUNITY TO FILE A
SUPPLEMENTAL BRIEF IN THIS INSTANCE. SAID
REQUEST IS MADE IN ORDER THAT HE BE ABLE
TO EXPAND THE RECORD AND PRESERVE THESE
ISSUES FOR HIS POST CONVICTION PETITION, OR
SUBSEQUENT REVIEW IN FEDERAL COURT.
APPELLANT'S ADDITIONAL GROUNDS WARRANT
OBSERVATION BY THIS COURT GIVEN THE TOTALITY
OF THE CIRCUMSTANCES AND THE SPECIOUS NATURE
OF THIS CONVICTION. APPELLANT MAINTAINS THAT
IF HE IS ALLOWED SUPPLEMENTAL BRIEFING THAT
HE CAN SHOW THAT THIS CONVICTION IS
CONSTITUTIONALLY INTOLERABLE. FURTHER, THAT

HAD HE BEEN PROVIDED EFFECTIVE ASSISTANCE OF
COUNSEL AT TRIAL AND APPEAL, THE RESULTS OF
THESE PROCEEDINGS WOULD HAVE BEEN DIFFERENT, BUT
FOR TRIAL & APPELLANT COUNSEL'S UNPROFESSIONAL ERRORS
OR INCOMPETENCE, SAID DEFICIENT PERFORMANCE
PREJUDICED APPELLANT'S DEFENSE SO AS TO DEPRIVE
HIM OF A FAIR TRIAL AND ADEQUATE APPEAL.

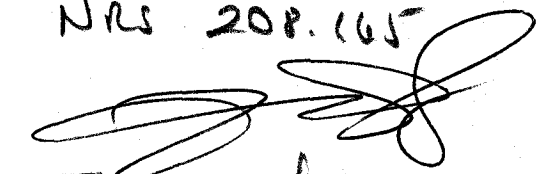
RESPECTFULLY DATED AND SUBMITTED THIS 19TH
DAY OF OCTOBER, 2004



FERRILL JOSEPH VOLPICELLI
APPELLANT PRO PER

CERTIFICATE OF MAILING:

DATED AND COPY MAILED ON THIS 19TH
DAY OF OCTOBER, 2004, TO MARY
LOU WILSON ESQ, WASHINE COUNTY
DISTRICT ATTORNEY, APPELLATE DIVISION,
AS CERTIFIED UNDER PENALTY OF
PERJURY PURSUANT TO NRS 208.165



FERRILL VOLPICELLI

22 JUNE, 2004

FERRU VOLPICELLI
79565 HOSP BOX 650

INDIAN SPRINGS, NV 89018

REG APPEAL CRO3-1263 / 43203

DEAR MS. WILSON,
GREETINGS!

↑
ADDRESS
CHANGE

YOU MAY REMEMBER THAT I SENT YOU
A LETTER OF INQUIRY LAST YEAR REGARDING
YOUR REPRESENTATION IN A CIVIL MATTER.
ASIDE FROM THIS, IT WOULD APPEAR THAT
FATE HAD IN MIND THAT OUR PATHS
WOULD CROSS AGAIN WITH MY APPEAL.
FIRSTLY, I AM EXPERIENCING DIFFICULTY IN
ACCESSING YOUR OFFICE VIA TELEPHONE
THROUGH THE MCT INMATE SERVICE HERE.
PERHAPS YOU COULD ADVISE ME ON THIS
MATTER.

NEXT, I UNDERSTAND THAT THE BASIS FOR
MY APPEAL WILL BE 1) WHETHER OR NOT
I RECEIVED A FAIR TRIAL & 2) WHETHER
THE HABITUAL OFFENDER ENHANCEMENT WAS
ADJUDICATED IN ERROR.

TO THIS, I WISH TO WORK CLOSELY
WITH YOU ALONG THE WAY. MATTERS
WHICH I HOPE YOU WILL PROFFER FOR
THE SUPREME COURT OF NEVADA WILL
BE FORWARDING IN THE NEXT COUPLE
OF WEEKS. I WILL ALSO NEED A
COPY OF THE TRANSCRIPT AS WELL.
THANK YOU.

LAW
OFFICE
OF
MARY
LOU
WILSON
ESQ.

24 June, 2004

Re: C603-1263/43203

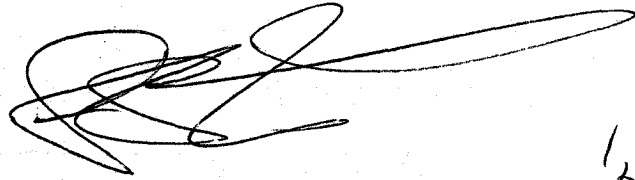
Dear Ms. Wilson,

In this letter I wish to address issues relevant to continuing communication based on a decision as well as my options with the Post Conviction Review Process. Changes to my family has caused you and a debt in the amount of \$5000 has been sent to cover costs for our first few cases. If this arrangement is acceptable to you, please advise your secretary to let me know my case in the event that you are prescribed or unavailable at this point, I am curious if a first time report can be pushed? If not, and because it is my talent better these issues with my case, would I achieve a later success by letting my report in advance and pushing a wait of 60 days? I realize that you have not had the opportunity to review my case in its entirety. However, I am confident that you can advise me as to my most expedient and likely option to achieve a later.

Please accept my call in the coming week or I may reply to this letter.

Thank you for your continued representation

Sincerely,



Let
Office
of
Mary
Lou
Wilson
ESA

ERRILL VORICU
79565 HASR BOX 650
JOURNAL PLAINS, NV 89018

24 JUNE, 2004

Forre Volpelli
79565 HOSP BOX 650
INDIAN SPRINGS, NV 89018

↳ REQUEST FOR TRANSCRIPT OF PROCEEDINGS

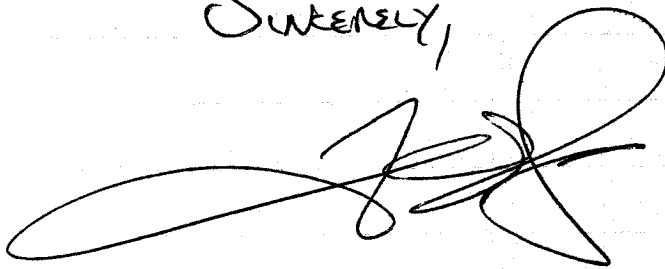
COURT
REPORTER
MS.
PEGGY
HOGGS
435
MARSH
AVE
RENO
NEVADA
89509

Dear Ms. HOGGS,

I AM IN RECEIPT OF THE ABOVE REFERENCED
DOCUMENTED 11 JUNE, 2004, REGARDING
MS. WILSON'S REQUEST. IN MY APPEAL. (43203)
ENCLOSED AS I AM FURNISHING 03-1263
WITH A WRIT OF HABEAS CORPUS IN PRO SE,
I AM RESPECTFULLY REQUESTING A SIMILAR
SET OF DOCUMENTS TO ASSIST ME WITH MY
PLEADING.

PLEASE FORWARD SAME TO ME AT THE
ABOVE ADDRESS AS SOON AS POSSIBLE
THANK YOU.

Sincerely,



cc: file
enclosure.

10 JULY, 2004

TERRILL VOLPICELLI

79565 HOSP BOX 650

INDIAN SPRINGS, NV 89018

LAW
OFFICE
OF
MARY
LOU
WILSON
ESQ.

RE: CRO31263/ 43203

DEAR MRS. WILSON, THIS IS MY 3RD LETTER OF INQUIRY REGARDING ISSUES AND CONCERNS WITH MY CASE.

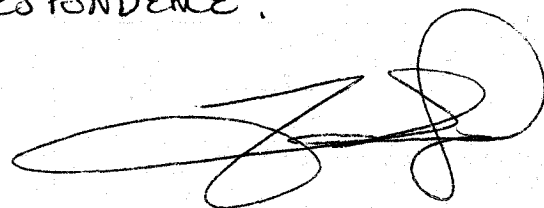
INASMUCH AS COMMUNICATION WITH YOUR OFFICE, TELEPHONICALLY HAS REVEALED AN IMPASSE, COULD I REQUEST THAT YOU PLACE AN INQUIRY WITH THE DIRECTOR'S OFFICE AT THE NDOC IN CARSON CITY REGARDING A TRANSFER OF CUSTODY BACK TO NORTHERN NEVADA? IN THAT WAY, VISITATION MAY BE FACILITATED TO DISCUSS PERSONAL MATTERS WITH MY CASE.

NEXT, IT IS MY ASSUMPTION THAT YOU ARE LIKELY IN RECEIPT OF THE CASE FILE WHICH TRANSFERRED FROM EITHER THE OFFICE OF BRAD VAN RY OR THE PUBLIC DEFENDER. IF SO, COULD I TROUBLE YOU FOR A COPY OF THE SOUTH LAKE TATTOO, CALIFORNIA 'STAPLES' RECEIPT INVOLVING AN EXCHANGE TRANSACTION? IT IS IMPERATIVE THAT I GLEAN INFORMATION FROM IT FOR REASONS RELEVANT TO POST CONVICTION RELIEF ISSUES WHICH I INTEND TO ELABORATE ON IN FUTURE LETTERS TO YOU. ALSO, COULD YOU PERUSE THE FILE TO ASCERTAIN WHETHER OR NOT THERE ARE COMPLETE TRANSCRIPTS IN THE DISCOVERY FILE PERTAINING TO TAPED CONVERSATIONS, AT WCCO AND RPD, BETWEEN INVESTIGATORS MYSELF & CODEFENDANT BOWMAN?

I ANXIOUSLY ANTICIPATE YOUR RESPONSE TO THE FOREGOING MATTERS, AS WELL AS OTHER ITEMS REFERENCED IN PRIOR CORRESPONDENCE.

THANK YOU.

Sincerely,



cc:
File

REG CRO3120/43203

FERRILL VOLPICELLI
78565 HOSP BOX 600
TROUT SPRINGS, NV 89018

18 JULY, 2004

LAW
OFFICE
OF
MARY
LOU
WILSON
ESQ

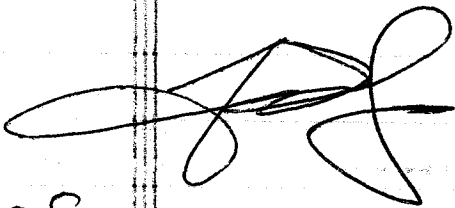
DEAR MS. WILSON,

WELL OVER THIRTY DAYS HAS PASSED SINCE THE FILING
OF A REQUEST FOR COURT'S TRANSCRIPTS OF PROCEEDINGS.
AS I MENTIONED IN MY 22 JUNE 2004 LETTER OF INQUIRY,
IT IS IMPERATIVE THAT I RECEIVE A COPY OF THE TRANSCRIPTS
OF OTHER HEARING TRANSCRIPTS TO ACCURATELY REFER YOU TO THE
ISSUES THAT I BELIEVE CONTAIN UNFAIR PREJUDICE WITH MY CASE.
OVER THE NEXT FEW WEEKS, IT WILL BE MY URGENT
OBJECTIVE TO PROVIDE YOU WITH CLARIFICATION AND A
REFERENCE TO MATTERS THAT DESERVE YOUR REVIEW & CONSIDERATION
WITH MY APPEAL. THOSE THAT YOU DEEM VIABLE, I RESPECTFULLY
REQUEST THAT YOU FURNISH THOSE ISSUES FOR FURTHERANCE OF
JUSTICE IN THE FEDERAL COURTS.

THANK YOU FOR YOUR CONTINUED REPRESENTATION

Sincerely,

P.S. A RECENT TELEPHONE CALL
TO MY MOTHER, JESSIE,
REVEALS YOU HAVE NOT YET
RETURNED HER CALL.



cc: file

MARY LOU WILSON
333 Marsh Avenue
Reno, Nevada 89509

MARY LOU WILSON
Attorney at Law

Telephone (775) 337-0200
Home (775) 825-6882
Fax (775) 786-5573

FERRILL JOSEPH VOLPICELLI V. STATE OF NEVADA

AUGUST 11, 2004

FERRILL JOSEPH VOLPICELLI
INMATE NUMBER 79565
NORTHERN NEVADA CORRECTIONAL FACILITY
POST OFFICE BOX 7000
CARSON CITY, NEVADA 89702

Dear Mr. Volpicelli,

Enclosed please find my copy of the trial transcript. I was under the impression that Peggy Hoogs had sent you a copy. However, they have advised me that the only copy they made was for me. Therefore, please find the trial transcripts volume 1 and 2 that were used in the Appellant's Opening Brief.

I will not be filing a Reply brief because of the strength of the Opening Brief and the redundancy if I replied to the State's Answer.

As you can see, please find also enclosed a copy of the State's Answering Brief.

Unfortunately, the law is clear regarding your case. There were witnesses and documents corroborating the "snitch," you were deemed competent to stand trial, the Indictment was satisfied with other evidence, and the habitual criminal status is discretionary with the court.

Justice for all.

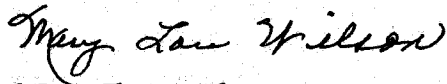
However, it is my belief that given the nature of your mental illness, the district court abused its discretion in running two terms consecutively.

I apologize for not accepting your collect calls or your mother's money. However, I only accept court appointed appeals and post convictions and never accept collect calls because of my small practice.

You may file a post conviction writ within one year of final judgment or remittitur from the direct appeal.

Within the post conviction writ, you may attack the effectiveness of trial and appellate counsel.

Very Sincerely Yours,


Mary Lou Wilson, Esq.

19 AUGUST 2004

FERRILL VOLPICELLI
79565 HASP BOX 650
INDIAN SPRINGS, NV 89018

#43223

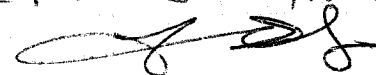
Ltn
OFFICE
OF
MARY
LOU
WILSON
ESQ

Dear Ms. Wilson,
FIRSTLY, THANK YOU FOR THE LONG AWAITED
LETTER OF RESPONSE DATED 11 AUGUST, 2004.
SECONDLY, PLEASE AMEND YOUR DATABASE
TO REFLECT MY ADDRESS IN SOUTHERN NEVADA
NEXT, ALTHOUGH I AM IN RECEIPT OF THE
TRIAL TRANSCRIPTS, I STILL NEED THE JURY
INSTRUCTIONS IN THEIR ENTIRETY, AS WELL AS THE
COURT TRANSCRIPT FOR THE PRETRIAL HEARING
TO CONFIRM TRIAL.

BY NOW YOU ARE LIKELY IN RECEIPT OF MY
LAST CORRESPONDENCE WHICH APPARENTLY
CROSSED IN THE MAIL WITH YOUR 11 AUGUST
MAILING. FOLLOWING YOUR REVIEW AND
CONSIDERATION OF ISSUES & CONCERNS DISCUSSED,
I AM REQUESTING THAT YOU FILE ANOTHER
BRIEF IN SUPPORT OF THE ISSUES THAT I
MENTION.

LASTLY, I HAVE CITED ON THE REVERSE SIDE
PAGES OF THE TRIAL TRANSCRIPT RELEVANT
TO BEWMAN'S PERJURY, AS WELL AS THE
INVESTIGATIVE & PROSECUTORIAL MISCONDUCT
SPECIFIED IN THE CONTROVERSIAL RPD
TRANSCRIPTS.

PLEASE PROVIDE ME WITH A PROMPT
REPLY TO THIS LETTER OF INQUIRY.



August 24, 2004

FERRIS VOICEMAIL
99565 HOSP BOX 650
INDIAN SPRINGS, NV 89018

Let
office
of
May
has
won
ESQ.

DEAR Mrs. Wilson,
BY NOW, YOU HAVE LIKELY REVIEWED THE
VOLUNTARY DOCUMENTATION THAT I SENT TO
YOU LAST WEEK. AS I MENTIONED IN
THE ACCOMPANYING LETTER, I AM ANXIOUS
TO HEAR FROM YOU REGARDING THE
Pursuit of the many issues & concerns
referenced with my case.

ADDITIONALLY, AND CONCERNING WITH MY CASE
FOR POST-CONVICTION RELIEF, I AM PENDING
THE RETURN OF THE CONFISCATED PROPERTY
LEGITIMATELY BELONGING TO MY FAMILY - AND
NOT CITED IN THE CRIMINAL INFORMATION,
COMPLAINTS OR INDICTMENT. HONORABLE JUDGE
HANDSLEY ISSUED AN ORDER ALLOWING
ME TO FURNISH 03-1263 IN PROPER
PERSON AND IN FURTHER PAPERS, THE
CITY ATTORNEY OF RENO IS CLAIMING
THAT MY ENDEAVORS ARE BARRED DUE
TO THE PENDING APPEAL. SINCE YOU ARE
THE COUNSEL OF RECORD WITH THE
CASE AT THIS PARTICULAR TURNING,
CAN YOU CONTRA THE CITY ATTORNEY
ON MY BEHALF TO EXPEDITE THE
COMPLETE RETURN OF THE PROPERTY
BELONGING TO MY FAMILY.
THANK YOU.

Sincerely

PLEASE
DUPLICATE
THE
ENCLOSURES
AND
RETURN
TO ME
BRIEFLY
WITH
YOUR
REPLY

cc of the
ENCLOSURES

MARY LOU WILSON
333 Marsh Avenue
Reno, Nevada 89509

MARY LOU WILSON
Attorney at Law

Telephone (775) 337-0200
Home (775) 825-6882
Fax (775) 786-5573

VOLPICELLI V. STATE OF NEVADA

SEPTEMBER 5, 2004

MR. FERRILL VOLPICELLI
INMATE NUMBER 79565
HDSP
POST OFFICE BOX 650
INDIAN SPRINGS, NEVADA 89018

Dear Mr. Volpicelli,

Enclosed please find the documents that you have sent and requested return. I am limited to represent you on direct appeal. Therefore, I will not be responding to any City Attorney matter.

Additionally, I would not accept appointment from the City Attorney's Office since my practice is limited to court appointed post conviction and appellate work.

There will be no additional brief filed by me in your appeal. Hence, the Notice provided standing upon the Appellant's Opening Brief and Nonreply.

I do not have any additional material to send you regarding your case. In fact, sending you the trial transcripts as well as any other correspondence with you is at my expense because I have completed the billing on appeal.

Justice for all.

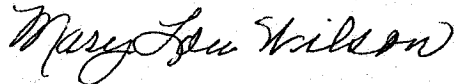
Therefore, please be kind enough not to send me any additional documents and request return of them because I cannot afford the postage.

Thank you in advance for your consideration.

Once again, you have one year after the Remittitur to file a post conviction petition against trial and appellate counsel. Please note, the Nevada Supreme Court has not yet ruled upon your direct appeal.

When they do, they will send me a copy of their Order and I will immediately provide it to you.

Very Sincerely Yours,

A handwritten signature in cursive script that reads "Mary Lou Wilson".

Mary Lou Wilson, Esq.

FERRIN VOICELLI
79565 ADOS, BOX 650
INDIAN SPRINGS, NV 89018

10 SEPTEMBER, 2004
CASE # 43203

Lotus
Office
of
MARY
LEE
WILSON
ESQ

DEAR MRS. WILSON,

I AM IN RECEIPT OF YOUR 5 SEPTEMBER, 2004
LETTER ALONG WITH THE DOCUMENTS I SENT TO
YOU FOR REVIEW.

ALTHOUGH I AM SYMPATHETIC TO YOUR
POSITION WITH YOUR LIMITED CASE FEE TO
JUSTIFY ANNUAL EXPENSES INVOLVED WITH
YOUR REPRESENTATION IN MY CASE, I DO NOT
UNDERSTAND WHY YOU BLINDLY SKIPPED THE
MATTER OF ISSUES AND CONCERNS I REFERENCED
WITH MY CASE - NOT INCLUDED IN THE APPEAL
ASIDE FROM THIS, AND SINCE YOU REMAIN
SPEAKFAST WITH YOUR DECISION TO NOT PROVIDE
ME WITH INPUT ON THE FOREGOING MATTER, I
AM RESPECTFULLY REQUESTING ONE LAST LETTER
FROM YOU REGARDING THE WHEREABOUTS
OF MY TRAIL ATTORNEY'S CASE FILE ON
CR-03-1263. IT WAS MY PRESUMPTION THAT
IT WAS FORWARDED TO YOU TO ASSIST WITH
THE PREPARATION OF THE APPEAL. THE
PUBLIC DEFENDERS OFFICE AND BRAD VAN RY
INFORM ME THEY ARE NOT IN POSSESSION
OF SAID. PLEASE REEVALUATE THIS
CONCERN OF MINE AND PROMPTLY INFORM ME
OF YOUR DETERMINATION. THANK YOU.

cc: file

let

FERRILL CORPCELL
79565 HOSP BOX 650
INDIAN SPRINGS, NV 89018

24 Sept, 2004

RE: 43203

DEAR Mrs. Wilson,

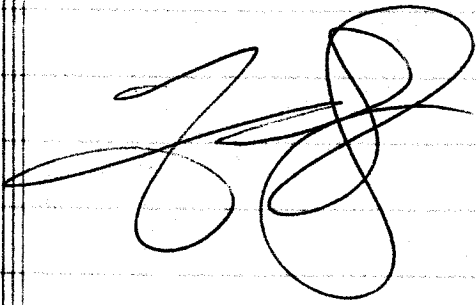
I CONTINUE TO HAVE PAIN AND CONCERN REGARDING ISSUES THAT I BROUGHT TO YOUR ATTENTION LAST MONTH. PROBABLY THE MOST SIGNIFICANT CONCERN INVOLVES MY CURIOSITY AS TO WHY THE APPEAL YOU PREPARED ON MY BEHALF DID NOT MAKE REFERENCE TO CASE LAW RELEVANT TO MY CALAMINUS SENTENCE IN VIEW OF THE APPENDIX CASE. THIS WAS ONE OF THE ISSUES I ATTEMPTED TO DISCUSS WITH YOU IN JUNE BY TELEPHONE. MEANWHILE, YOU WERE ALREADY NEARING THE END OF MY APPEAL. FOR SUBMISSION TO THE NEVADA SUPREME COURT. SINCE THEN, OUR LAW LIBRARY HAS PROVIDED ME WITH THE LAND MARK DECISION IN *BRADLEY V WASHINGTON*. IN THAT CASE, IT CLEARLY STATES THAT 'TODAY'S DECISION CASTS CONSIDERABLE DOUBT OVER AN UNTOLD NUMBER OF CRIMINAL JUDGMENTS VERY SIMILAR TO MINE. FURTHERMORE, THAT EVERY SENTENCE IMPOSED IN VIOLATION OF THE 6TH AMENDMENT BY A JUDGE, WITH CASES CURRENTLY PENDING DIRECT APPEAL ARE IN JEOPARDY. DOES THIS MEAN THAT THE NEVADA SUPREME COURT WILL BE COMPELLED TO REVIEW THE SENTENCE STRUCTURE IN MY CASE WITH THIS ISSUE IN MIND - EVEN IF YOU FAILED TO BRING

LAW
OFFICE
OF
MARY
LOU
WILSON
ESQ

THE JUNE, 2004 CASE OF BLAKEY V WASHINGTON
TO THEIR ATTENTION? IF SO, THEN I REMAIN
CONFUSED AS TO WHY YOU DID NOT PROFFER
THE SENTENCING ISSUES, RELEVANT TO APPENDI,
RING, AND TEEGUE, TO THE ATTENTION OF THE
MAGISTRATES IN CARSON CITY, IN A REPLY TO THE STATE'S
OPPOSITION. PLEASE PROVIDE ME WITH A PROMPT REPLY
TO THIS INQUIRY AT YOUR EARLIEST
CONVENIENCE. THANK YOU.

Sincerely,

cc:ofc

A large, stylized handwritten signature, possibly reading "J. Blaney", written in black ink.

**SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

FERRILL JOSEPH VOLPICELLI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 43203
District Court Case No. CR031263

RECEIPT FOR DOCUMENTS

TO: Mary Lou Wilson
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick and Terrence P.
McCarthy, Deputy District Attorney

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

10/21/04 Received Proper Person Motion.
Motion for Leave According to NRAP/Rule 46(b).

DATE: October 21, 2004

Janette M. Bloom, Clerk of Court

By: _____

Deputy Clerk

Fried 11/5/04