

ORIGINAL

CODE 2505

FERRILL J. VOLPICELLI # 79565

Lovelock Correctional Center

P.O. Box 359 1200 Prison Road

Lovelock, Nevada 89419

Petitioner In Pro Se

FILED

2008 MAY -8 PM 1:42

HOWARD W. CONYERS

BY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

No. 51622

FERRILL JOSEPH VOLPICELLI

Case No. CRO3 P1263

Petitioner,

Dept. No. 10

-VS-

FILED

LENARD VARE, WARDEN

Respondent.

MAY 14 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Lindeman*
DEPUTY CLERK

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Petitioner, Ferrill J. Volpicelli,
in pro se, hereby appeals to the Nevada Supreme Court the Findings
of Fact, Conclusions of Law and Order Denying/Dismissing petition
for writ of habeas corpus, as filed/entered ^{or doct} on the 11th day of
April, 2008, in the above-entitled Court.

Dated this 6th day of May, 2008.

FERRILL J. VOLPICELLI # 79565

Lovelock Correctional Center

P.O. Box 359 1200 Prison Road

Lovelock, Nevada 89419

Petitioner In Pro Se

RECEIVED

MAY 14 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

ORIGINAL

02-171210

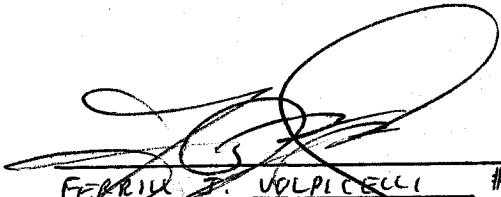
DC-9900003124-018
CRO3P1263
FERRILL J. VOLPICELLI 2 Pages
POST: FERRILL J. VOLPICELLI 05/08/2008 01:42 PM
District Court 2515
Washoe County
CLERK

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing
NOTICE OF APPEAL to the
below addresses on this 6th day of May, 2008, by placing same
into the hands of prison staff for posting in the U.S. Mail, per NRCP 5(b):

TERRY MCCARTHY
Deputy District Attorney
Appellate Div.
P.O. Box 30083
Reno, NV 89520

KAY ELLEN ARMSTRONG, Esq.
415 W. Second St.
Carson City, NV 89703

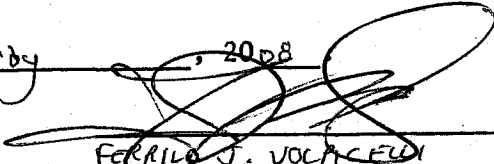

FERRUCCIO J. VOLPICELLI # 78565
Lovelock Correctional Center
P.O. Box 359-1200 Prison Rd.
Lovelock, Nevada 89419

Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document,
NOTICE OF APPEAL, filed in
Case Number CR03P1263 does NOT contain the social security number of
any person.

Dated this 6th day of May, 2008


FERRUCCIO J. VOLPICELLI # 78565
Petitioner In Pro Se

1 CODE 1310

FILED

MAY 12 2008

HOWARD W. CONNERS, CLERK
By: *[Signature]*
DEPUTY CLERK

2
3
4
5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF Washoe County

8
9 FERRILL JOSEPH VOLPICELLI,

10 Appellant(s)

Case No. CR03P1263

11 vs.

Dept. No. 10

12 THE STATE OF NEVADA,

13 Respondent(s)
14 _____

15
16 CASE APPEAL STATEMENT

- 17
18 1. Ferrill Joseph Volpicelli is the Appellant.
19 2. The appeal is from a Judgment/Order on or about April 14, 2008 by
20 the Honorable Steven Elliott.
21 3. The parties below in District Court consisted of: Ferrill Joseph Volpicelli
22 the Defendant, and The State of Nevada, the Plaintiff, in District Court.
23 4. The parties herein in the Nevada Supreme Court consist of: Ferrill
24 Joseph Volpicelli/Appellant, and The State of Nevada/Respondent.
25 5. Counsel on Appeal for Appellant, consists of: Ferrill Joseph Volpicelli
26 /Pro Per Appellant #79565, Lovelock Correctional Center, P.O. Box
27 359, Lovelock, NV 89419.
28

6. Counsel on appeal for Respondent is **Gary Hatlestad, Deputy District Attorney – Appellant Division, P.O. Box 30083, Reno, NV 89520-3083.**
7. In District Court Appellant was represented **In Proper Person.**
8. Appellant is represented **in Proper Person** in this appeal.
9. N/A in this case.
10. The **Indictment** was filed on **June 11, 2003.**

Dated: **May 12, 2008**

Howard W. Conyers, Clerk of the Court,

By: _____



Cathy Kepler, Appeals Clerk

(775) 328-3114

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE

Case History - CR03-1263

DEPT. D10

HON. STEVEN P. ELLIOTT

Report Date & Time
5/12/2008
9:34:39AM

Case ID:	CR03-1263	Case Description:	STATE VS. FERRILL JOSEPH VOLPICELLI (D10) CRIMINAL	Initial Filing Date:	6/11/2003
		Type:	Parties		

RESP	STATE OF NEVADA - STATE
APPE	FERRILL JOSEPH VOLPICELLI - @67988
PROP	FERRILL JOSEPH VOLPICELLI - @67988
PLTF	STATE OF NEVADA - STATE
DA	Tammy M. Riggs, Esq. - 7498
DEFT	FERRILL JOSEPH VOLPICELLI - @67988
DATY	Gary Howard Hatlestad, Esq. - 1525

Charges				
Charge No.	Charge Code	Charge Date		Charge Description
1	G130	6/11/2003	IND	CONSPIRACY TO COMMIT CRIMES AGAINST PROPERTY
2	F170	6/11/2003	IND	BURGLARY
3	F170	6/11/2003	IND	BURGLARY
4	F170	6/11/2003	IND	BURGLARY
5	F170	6/11/2003	IND	BURGLARY
6	F170	6/11/2003	IND	BURGLARY
7	F170	6/11/2003	IND	BURGLARY
8	F170	6/11/2003	IND	BURGLARY
9	F170	6/11/2003	IND	BURGLARY
10	F1086	6/11/2003	IND	UNLAWFUL POSSESSION, MAKING, FORGERY OF COUNTERFEITING C INVENTORY PRICING LABELS

Plea Information			
Charge No.	Plea Code	Plea Date	Plea Description
1	G130	6/18/2003	PLED NOT GUILTY
2	F170	6/18/2003	PLED NOT GUILTY
3	F170	6/18/2003	PLED NOT GUILTY
4	F170	6/18/2003	PLED NOT GUILTY
5	F170	6/18/2003	PLED NOT GUILTY
6	F170	6/18/2003	PLED NOT GUILTY
7	F170	6/18/2003	PLED NOT GUILTY

**-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-**

Case ID: CR03-1263		Case Description:	STATE VS. FERRILL JOSEPH VOLPICELLI (D10)	Initial Filing Date: 6/11/2003
		Type:	CRIMINAL	
8	F170	6/18/2003	PLED NOT GUILTY	
9	F170	6/18/2003	PLED NOT GUILTY	
10	F1086	6/18/2003	PLED NOT GUILTY	

Date	Charge No.	Charge Desc	Sentences Time Served	Sentence Text
4/1/2004	1	Washoe County Jail		WCJ 12 MOS., TO RUN CONCUR. W/ COUNTS II THRU X + REST. + FEES. SAID SENTENCE IS TO RUN CONSEC. TO ANY OTHER SENTENCE THE DEFT. IS OBLIGATED TO SERVE.
4/1/2004	10	Life With Poss of Parole		NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS BEEN SERVED, TO RUN CONSEC. TO COUNT IX
4/1/2004	2	Life With Poss of Parole		NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS BEEN SERVED
4/1/2004	3	Life With Poss of Parole		NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS BEEN SERVED, TO RUN CONCURRENTLY W/ COUNT II
4/1/2004	4	Life With Poss of Parole		NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS BEEN SERVED, TO RUN CONCURRENTLY W/ COUNT III
4/1/2004	5	Life With Poss of Parole		NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS BEEN SERVED, TO RUN CONCURRENTLY W/ COUNT IV
4/1/2004	6	Life With Poss of Parole		NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS BEEN SERVED, TO RUN CONCURRENTLY W/ COUNT V
4/1/2004	7	Life With Poss of Parole		NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS BEEN SERVED, TO RUN CONCURRENTLY W/ COUNT VI
4/1/2004	8	Life With Poss of Parole		NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS BEEN SERVED, TO RUN CONCURRENTLY W/ COUNT VII
4/1/2004	9	Life With Poss of Parole		NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS BEEN SERVED, TO RUN CONCURRENTLY W/ COUNT VIII

Release Information

Custody Status

10/3/2003 CUSTODY - WCJ
4/1/2004 CUSTODY - NSP

Hearings

Department	Event Description	Sched. Date & Time
1 D9	ARRAIGNMENT	6/18/2003 08:30:00
Extra Text: ON INDICTMENT		Disposition: D725 6/18/2003 INDICTMENT

Department	Event Description	Sched. Date & Time
2 D9	MOTION TO CONFIRM TRIAL	9/24/2003 08:30:00

**-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-**

Case ID: CR03-1263	Case Description: STATE VS. FERRILL JOSEPH VOLPICELLI (D10) CRIMINAL	Initial Filing Date: 6/11/2003
Extra Text:	Type:	Disposition: D435 9/24/2003 COUNSEL FOR STATE INDICATED THIS CASE HAD BEEN RESCHEDULED FOR A MTC 10/24/03 AT 8:30 A.M. AND A JURY TRIAL 11/10/03 AT 8:30 A.M. WITH THE COURT'S ADMINISTRATIVE ASSISTANT

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date & Time</i>
3 D9	TRIAL - JURY	10/6/2003 08:30:00

Extra Text: (4 DAYS)

Disposition:
D844 9/24/2003 STIP & ORDER TO BE SENT TO DEPT

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date & Time</i>
4 D9	MOTION TO CONFIRM TRIAL	10/24/2003 08:30:00

Extra Text:

Disposition:
D425 10/24/2003

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date & Time</i>
5 D9	STATUS HEARING	10/29/2003 08:30:00

Extra Text: RE: SUBMITTED MOTIONS BY DEFENSE COUNSEL

Disposition:
D435 10/29/2003

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date & Time</i>
6 D9	TRIAL - JURY	11/10/2003 08:30:00

Extra Text:

Disposition:
D844 10/29/2003

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date & Time</i>
7 D10	EXHIBITS TO BE MARKED W/CLERK	11/10/2003 13:30:00

Extra Text:

Disposition:
D596 11/10/2003

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date & Time</i>
8 D10	HEARING...	11/10/2003 13:30:00

Extra Text: HEARING REGARDING DEFENSE COUNSEL ADVISING COURT THAT DEFENDANT HAS REQUESTED NEW COUNSEL

Disposition:
D435 11/10/2003 TRIAL TO PROCEED AS SCHEDULED

**-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-**

Case ID:	CR03-1263	Case Description:	STATE VS. FERRILL JOSEPH VOLPICELLI (D10) CRIMINAL	Initial Filing Date:	6/11/2003
			Type:		

Department	Event Description	Sched. Date & Time
9 D9	TRIAL - JURY	11/12/2003 10:00:00

Extra Text: (2 DAYS)

Disposition:
D844 11/10/2003

Department	Event Description	Sched. Date & Time
10 D10	TRIAL - JURY	11/12/2003 08:30:00

Extra Text: (2 DAYS)

Disposition:
D832 11/12/2003

Department	Event Description	Sched. Date & Time
11 D10	TRIAL ONGOING	11/13/2003 10:30:00

Extra Text:

Disposition:
D832 11/13/2003

Department	Event Description	Sched. Date & Time
12 D10	TRIAL ONGOING	11/14/2003 10:00:00

Extra Text:

Disposition:
D895 11/14/2003 COUNTS I THROUGH X

Department	Event Description	Sched. Date & Time
13 D10	SENTENCING	12/23/2003 08:30:00

Extra Text:

Disposition:
D870 12/22/2003 STIP AND ORDER TO BE FILED
(RESET 12/12/03)

Department	Event Description	Sched. Date & Time
14 D10	SENTENCING	2/5/2004 11:00:00

Extra Text:

Disposition:
D875 2/2/2004 RESET BY STIPULATION OF
COUNSEL TO 4/1/04 @ 10:00 A.M.

Department	Event Description	Sched. Date & Time
15 D10	SENTENCING	4/1/2004 10:00:00

Extra Text:

Disposition:
D765 4/1/2004

Agency Cross Reference

Code	Agency Description	Case Reference I.D.
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-REPORT MAY CONTAIN SEALED CASE INFORMATION-**

Case ID: CR03-1263		Case Description:	STATE VS. FERRILL JOSEPH VOLPICELLI (D10)
		Case Type:	CRIMINAL
			Initial Filing Date: 6/11/2003
DA	District Attorney's Office		DA314735
PC	PCN number		PCN82444206/82444252
PC	PCN number		PCN82444285/81788297/81625263
RP	Reno Police Department		RPDRP01216321/RP01216452
RP	Reno Police Department		RPDRP01219145/RP01220307
RP	Reno Police Department		RPDRP01221241
SC	Supreme Court		SCN 43203

			Actions
<i>Action Entry Date</i>	<i>Code</i>	<i>Code Description</i>	<i>Text</i>
6/11/2003	1300	Bench Warrant Filed-Case Clsd	BAIL SET AT \$50,000.00 CASH ONLY
6/11/2003	1795	Indictment	
6/17/2003	1325	** Case Reopened	
6/17/2003	3897	Return	BENCH WARRANT
6/18/2003	1280	** 60 Day Rule - Waived	
6/20/2003	1775	General Receipt	GRAND JURY TRANSCRIPT (D.A.)
6/20/2003	4185	Transcript ...	GRAND JURY
6/23/2003	4185	Transcript ...	JUNE 18, 2003 - ARRAIGNMENT ON INDICTMENT
7/7/2003	1080	Agreement...	RECIPROCAL DISCOVERY AGREEMENT
7/9/2003	1775	General Receipt	GRAND JURY TRANSCRIPT
7/9/2003	3839	Request Agree Ord Recp Discv	
7/16/2003	3645	Petition ...	EX PARTE PET FOR CLARIFICATION ON ISSUES RE: STATE BAIL
7/22/2003	3862	**Criminal Submit	DOCUMENT TITLE: EX PARTE PET PARTY SUBMITTING: VOLPICELLI DATE SUBMITTED: 7/22/03 SUBMITTED BY: P. MEACHAM DATE RECEIVED JUDGE'S OFFICE:
8/1/2003	3862	**Criminal Submit	DOCUMENT TITLE: EX PARTE PET FOR CLARIFICATION PARTY SUBMITTING: VOLPICELLI DATE SUBMITTED: 8/1/03 SUBMITTED BY: P. MEACHAM DATE RECEIVED JUDGE'S OFFICE:
8/1/2003	3645	Petition ...	EX PARTE PET FOR CLARIFICATION ON ISSUES RE: STATE BAIL
8/1/2003	3645	Petition ...	EX PARTE PET FOR CLARIFICATION ON ISSUES RE: STATE BAIL
8/13/2003	2840	Ord Denying ...	EX PARTE PETITION FOR CLARIFICATION
9/3/2003	3860	Request for Submission	DOCUMENT TITLE: MOTION FOR RELEASE OF DOCUMENTS PARTY SUBMITTING: F. VOLPICELLI DATE SUBMITTED: 9-24-03 SUBMITTED BY: GVELARDE DATE RECEIVED JUDGE'S OFFICE:
9/12/2003	1930	Letters ...	FROM DEFENDANT

-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-

Case ID: CR03-1263		Case Description:	STATE VS. FERRILL JOSEPH VOLPICELLI (D10)
		Type:	CRIMINAL
			Initial Filing Date: 6/11/2003
10/7/2003	4030	Stip & Ord Continue Trial	
10/7/2003	1810	Inmate Request Form Filed	
10/9/2003	2610	Notice ...	NOTICE OF INTENT TO SEEK HABITUAL CRIMINAL STATUS
10/13/2003	4185	Transcript ...	09/24/03 - MOTION TO CONFIRM TRIAL
11/7/2003	3370	Order ...	GRANTING DEFENDANT'S MOTION TO SUPPRESS; DENYING DEFENDANT'S REQUEST TO QUASH THE INDICTMENT
11/7/2003	3370	Order ...	ORDER TRANSFERRING CASE TO D10 FOR TRIAL 11/12/03 (D9 PRESIDING OVER ANOTHER MATTER THAT DATE)
11/7/2003	2592	Notice of Witnesses	
11/14/2003	4235	Unused Verdict Form(s)...	NOT GUILTY (I THROUGH X)
11/14/2003	4245	Verdict(s)...	GUILTY COUNTS I THROUGH X
11/14/2003	1885	Jury Instructions	1 THROUGH 37
11/14/2003	1695	** Exhibit(s) ...	STATE'S EXHIBITS 1 THROUGH 46
11/17/2003	1930	Letters ...	FROM DEFENDANT
11/26/2003	4185	Transcript ...	10/24/03 - MOTION TO CONFIRM TRIAL
12/2/2003	4185	Transcript ...	OCTOBER 29, 2003 - STATUS HEARING
12/12/2003	1250	Application for Setting	2-5-04 @11:00
12/15/2003	4185	Transcript ...	11/10/03 - HEARING
12/19/2003	4500	PSI - Confidential Envelope	11/25/03 REPORT
1/16/2004	1260	Application Produce Prisoner	
1/22/2004	3340	Ord to Produce Prisoner	
4/1/2004	1695	** Exhibit(s) ...	STATE'S EXHIBIT 1-5 DEFENDANT'S EXHIBITS 6-7
4/1/2004	1850	Judgment of Conviction	
4/13/2004	4185	Transcript ...	04/01/04 - SENTENCING
4/19/2004	4300	Withdrawal of Counsel	
4/22/2004	2515	Notice of Appeal Supreme Court	
4/22/2004	1350	Certificate of Clerk	
4/22/2004	1365	Certificate of Transmittal	
4/22/2004	1310	Case Appeal Statement	
4/22/2004	1215	Application Appoint Counsel	REQUEST
4/27/2004	2840	Ord Denying ...	ORDER DENYING REQUEST FOR APPOINTMENT OF COUNSEL
4/29/2004	1187	**Supreme Court Case No. ...	SUPREME COURT CASE NO. 43203
4/29/2004	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 43203
5/7/2004	3868	Req to Crt Rptr - Rough Draft	

**-FOR INTERNAL COURT USE ONLY-
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-REPORT MAY CONTAIN SEALED CASE INFORMATION-**

Case ID: CR03-1263		Case Description:	STATE VS. FERRILL JOSEPH VOLPICELLI (D10)
		Type:	CRIMINAL
			Initial Filing Date: 6/11/2003
5/11/2004	2385	Mtn Proceed in Forma Pauperis	
5/11/2004	1030	Affidavit in Support...	OF REQUEST TO PROCEED IN FORMA PAUPERIS
5/11/2004	4135	Supreme Court Ord Remanding	SUPREME COURT CASE NO. 43203 ORDER OF LIMITED REMAND FOR APPOINTMENT OF COUNSEL
5/11/2004	3862	**Criminal Submit	DOCUMENT TITLE: ORDER OF LIMITED REMAND FOR APPOINTMENT OF COUNSEL PARTY SUBMITTING: CKEPLER DATE SUBMITTED: 5/11/04 SUBMITTED BY: CKEPLER DATE RECEIVED JUDGE'S OFFICE: SUBPOENA DUCES TECUM
5/17/2004	2405	Mtn to Quash...	
5/19/2004	3862	**Criminal Submit	DOCUMENT TITLE: MOTION TO PROCEED IN FORMA PAUPERIS PARTY SUBMITTING: F. VOLPICELLI DATE SUBMITTED: 5-19-04 SUBMITTED BY: GVELARDE DATE RECEIVED JUDGE'S OFFICE: 5/21/04
5/27/2004	3035	Ord Grant in Forma Pauperis	
5/28/2004	2525	Notice of Change of Address	
6/1/2004	2525	Notice of Change of Address	
6/1/2004	2715	Ord Appointing Counsel	MARY LOU WILSON
6/1/2004	3370	Order ...	DECLARING DEFENDANT A HABITUL CRIMINAL
6/14/2004	3860	Request for Submission	DOCUMENT STRUCK FROM RECORD PER ORDER FILED 9-23-04
6/21/2004	3870	Request...	DOCUMENT STRUCK FROM RECORD PER ORDER FILED 9-23-04
7/2/2004	4185	Transcript ...	TRIAL 11-12-03
7/2/2004	4185	Transcript ...	JURY TRIAL 11-13-03 - 11-14-03
7/6/2004	2145	Mtn Ord to Show Cause	DOCUMENT STRUCK FROM RECORD PER ORDER FILED 9-23-04
7/14/2004	1670	Ex-Parte Mtn...	FOR APPROVAL OF FEES IN THE APPELLANT'S OPENING BRIEF AND JOINT APPENDIX
7/22/2004	1675	Ex-Parte Ord...	FOR APPROVAL OF FEES IN THE PREPARATION AND COMPLETION OF THE APPELLANT'S OPENING BRIEF AND JOINT APPENDIX
8/3/2004	2490	Motion ...	MOTION FOR RETURN OF PROPERTY AND REQUEST FOR HEARING RE: RESTITUTION AMOUNT
8/3/2004	3860	Request for Submission	DOCUMENT STRUCK FROM RECORD PER ORDER FILED 9-23-04
8/3/2004	3860	Request for Submission	DOCUMENT STRUCK FROM RECORD PER ORDER FILED 9-23-04
8/3/2004	3860	Request for Submission	DOCUMENT STRUCK FROM RECORD PER ORDER FILED 9-23-04
8/18/2004	2475	Mtn to Strike...	FUGITIVE DOCUMENT

-FOR INTERNAL COURT USE ONLY-
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-REPORT MAY CONTAIN SEALED CASE INFORMATION-

Case ID: CR03-1263		Case Description:	STATE VS. FERRILL JOSEPH VOLPICELLI (D10)
		Type:	CRIMINAL
			Initial Filing Date: 6/11/2003
8/26/2004	3860	Request for Submission	BOTH REQUESTS FOR SUBMISSION FILED 8-26-04: STRUCK FROM RECORD PER ORDER FILED 9-23-04
9/23/2004	3250	Ord Striking ...	FUGITIVE DOCUMENTS
6/30/2005	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 43203
8/1/2005	4145	Supreme Court Remittitur	SUPREME COURT CASE NO. 43203
8/1/2005	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 43203
8/1/2005	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT CASE NO. 43203
9/12/2005	2645	Opposition to Mtn ...	FOR ORDER TO COMPEL
9/12/2005	2270	Mtn to Compel...	MOTION FOR ORDER TO COMPEL
9/13/2005	1650	Errata...	TO OPPOSITION TO MOTION FOR ORDER TO COMPEL
9/27/2005	3795	Reply...	TO STATE'S OPPOSITION TO MOTION FOR ORDER TO COMPEL AND AND TO VAN RY'S ERRATA TO OPPOSITION TO MOTION FOR ORDER TO COMPEL
9/30/2005	3860	Request for Submission	DOCUMENT TITLE: MOTION TO COMPEL, DEFENDANT'S ANSWER, ERRATA TO OPPOSITION... PARTY SUBMITTING: F. VOLPICELLI DATE SUBMITTED: 10-3-05 SUBMITTED BY: GVELARDE DATE RECEIVED JUDGE'S OFFICE:
12/12/2005	3370	Order ...	ORDER TO RESPOND
12/15/2005	4065	Subpoena Duces Tecum	
12/15/2005	1245	Application Ord Show Cause	(2) REQUEST(S) FOR ORDER TO SHOW CAUSE RE: CONTEMPT OF COURT - ORDER TO COMPEL
1/10/2006	3880	Response...	FORMER COUNSEL'S RESPONSE IN ACCORDANCE WITH ORDER TO RESPOND
2/9/2006	3860	Request for Submission	DOCUMENT TITLE: MOTION TO COMPEL PARTY SUBMITTING: F. VOLPICELLI DATE SUBMITTED: 2-9-06 SUBMITTED BY: GVELARDE DATE RECEIVED JUDGE'S OFFICE:

**-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-**

NOT FOR DISTRIBUTION
TO THE PUBLIC

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE

Case History - CR03P1263

DEPT. D10

HON. STEVEN P. ELLIOTT

Report Date & Time
5/12/2008
9:35:13AM

Case ID:	CR03P1263	Case Description:	POST: FERRILL J. VOLPICELLI (D10) POST CONVICTION	Initial Filing Date:	11/9/2005
----------	-----------	-------------------	--	----------------------	-----------

Type:	Parties
RESP	STATE OF NEVADA - STATE
PETR	FERRILL JOSEPH VOLPICELLI - @67988
DA	Richard Allen Gammick, Esq. - 1510
CAA	Kay Armstrong - 715

Charges			
Charge No.	Charge Code	Charge Date	Charge Description

Plea Information			
Charge No.	Plea Code	Plea Date	Plea Description

Release Information
Custody Status

Hearings

Department	Event Description	Sched. Date & Time
1 D10	Request for Submission	1/29/2007 08:30:00
Extra Text: MOTION FOR COURT APPOINTED FEES		Disposition: S200 1/30/2007 ORDER GRANTING FEES

Department	Event Description	Sched. Date & Time
2 D10	Tickle Start Code	5/7/2007 07:00:00
Extra Text: 60 DAYS SINCE REQUEST FOR SUBMISSION OF MOTION FOR PARTIAL DISMISSAL OF PETITION AND SUPPLEMENTAL PETITION FILED 3/5/07. STATUS?		Disposition: T200 8/2/2007 ORDER PARTIALLY DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) AND ORDER TO SET HEARING

-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-

Case ID: CR03P1263 Case Description: POST: FERRILL J. VOLPICELLI (D10)
Type: POST CONVICTION Initial Filing Date: 11/9/2005

Department	Event Description	Sched. Date & Time
3 D10	Tickle Start Code	8/27/2007 07:00:00

Extra Text: PER ORDER OF 8/2/07 HEARING TO HAVE BEEN SET BY 8/23/07

Disposition:
T200 8/8/2007 EVIDENTIARY HEARING SET FOR 9/20/07 @ 1:30 P.M.

Department	Event Description	Sched. Date & Time
4 D10	PETITION FOR POST CONVICTION	9/20/2007 13:30:00

Extra Text: EVIDENTIARY HEARING

Disposition:
D445 9/20/2007

Department	Event Description	Sched. Date & Time
5 D10	Request for Submission	10/25/2007 12:55:00

Extra Text: PETITION FOR POST-CONVICTION HABEAS CORPUS

Disposition:
S200 10/25/2007 ENTERED IN ERROR

Department	Event Description	Sched. Date & Time
6 D10	Request for Submission	12/24/2007 12:45:00

Extra Text: MOTION FOR COURT APPOINTED FEES

Disposition:
S200 1/8/2008 ORDER GRANTING MOTION FOR COURT APPOINTED FEES (\$3,240.56)

Department	Event Description	Sched. Date & Time
7 D10	PETITION FOR POST CONVICTION	1/23/2008 13:30:00

Extra Text: EVIDENTIARY HEARING

COURT CLERKS- PLEASE GET POLICE TRANSCRIPT EXHIBITS FROM EXHIBIT ROOM FOR JUDGE FOR HEARING

Disposition:
D843 1/23/2008 RESPECTIVE COUNSEL STIPULATED TO VACATE AND RESET HRG DUE TO MS. ARMSTRONG'S ILLNESS.

Department	Event Description	Sched. Date & Time
8 D10	PETITION FOR POST CONVICTION	2/14/2008 13:30:00

Extra Text: CONTINUATION OF WRIT OF HABEAS CORPUS HEARING

Disposition:
D355 2/14/2008

Agency Cross Reference

Code	Agency Description	Case Reference I.D.
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Actions

Action Entry Date	Code	Code Description	Text
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**-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-**

Case ID: CR03P1263		Case Description	POST: FERRILL J. VOLPICELLI (D10)	Initial Filing Date: 11/9/2005
		Type:	POST CONVICTION	
<u>11/9/2005</u>	1955	Memorandum Points & Authorities		
<u>11/9/2005</u>	1670	Ex-Parte Mtn...	FOR APPOINTMENT OF COUNSEL	
<u>11/9/2005</u>	3565	Pet Post-Conviction Relief		
<u>1/5/2006</u>	3862	**Criminal Submit	DOCUMENT TITLE: PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) PARTY SUBMITTING: FERRILL J. VOLPICELLI DATE SUBMITTED: 1/5/06 SUBMITTED BY: A. SIMPSON DATE RECEIVED JUDGE'S OFFICE:	
<u>1/31/2006</u>	3860	Request for Submission	DOCUMENT TITLE: MOTION TO COMPEL PARTY SUBMITTING: F. VOLPICELLI DATE SUBMITTED: 2-3-06 SUBMITTED BY: GVELARDE DATE RECEIVED JUDGE'S OFFICE:	
<u>1/31/2006</u>	2270	Mtn to Compel...	MOTION FOR ORDER TO COMPEL	
<u>1/31/2006</u>	3860	Request for Submission	DOCUMENT TITLE: POST CONVICTION PARTY SUBMITTING: F. VOLPICELLI DATE SUBMITTED: 2-3-06 SUBMITTED BY: GVELARDE DATE RECEIVED JUDGE'S OFFICE:	
<u>2/17/2006</u>	2645	Opposition to Mtn ...	FOR ORDER TO COMPEL AND MOTION TO QUASH SUBPOENA DUCES TECUM	
<u>3/6/2006</u>	1930	Letters ...	LETTER BRIEF	
<u>3/17/2006</u>	2645	Opposition to Mtn ...	OPPOSITION TO MOTION FOR ORDER TO COMPEL AND MOTION TO QUASH SUBPOENA DUCES TECUM	
<u>3/21/2006</u>	3860	Request for Submission	DOCUMENT TITLE: RESPONSE TO PETITIONER'S LETTER BRIEF PARTY SUBMITTING: KAREN FRALEY, ESQ. DATE SUBMITTED: 3-22-06 SUBMITTED BY: GVELARDE DATE RECEIVED JUDGE'S OFFICE:	
<u>3/21/2006</u>	3880	Response...	RESPONSE TO PETITIONER' "LETTER BREIF" FILED IN REPLY TO THE CITY OF RENO'S OPPOSITION TO MOTION FOR ORDER TO COMPEL AND MOTION TO QUASH SUBPOENA DUCES TECUM	
<u>3/22/2006</u>	4105	Supplemental ...	MEMORANDUM OF POINTS AND AUTHROITIES IN SUPPORT OF PETITION FOR POST CONVICTION	
<u>5/22/2006</u>	3860	Request for Submission	DOCUMENT TITLE: POST CONVICTION PARTY SUBMITTING: F. VOLPICELLI DATE SUBMITTED: 5-31-06 SUBMITTED BY: GVELARDE DATE RECEIVED JUDGE'S OFFICE:	
<u>8/10/2006</u>	3370	Order ...	QUASHING SUBPOENA DUCES TECUM AND DENYING MOTION TO COMPEL	

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Case ID: CR03P1263		Case Description:	Case Type:	POST: FERRILL J. VOLPICELLI (D10)	Initial Filing Date: 11/9/2005
				POST CONVICTION	
<u>8/10/2006</u>	3370	Order ...		APPOINTING KAY ELLEN ARMSTRON AS COUNSEL TO REPRESENT PETITION IN HIS WRIT OF HABEAS CORPUS PROCEEDINGS. MS. ARMSTRONG SHALL HAVE 45 DAYS FROM THE DATE OF THIS ORDER TO FILE A SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS ON BEHALF OF PETITIONER	
<u>9/15/2006</u>	4047	Stip Extension of Time ...		STIPULATION TO EXTEND TIME TO FILE SUPPLEMENT TO PETITION	
<u>11/21/2006</u>	4100	Supplemental Petition			
<u>12/18/2006</u>	3370	Order ...		FOR RESPONSE [FROM DISTRICT ATTORNEY]	
<u>1/26/2007</u>	3860	Request for Submission		DOCUMENT TITLE: MOTION FOR COURT APPOINTED FEES PARTY SUBMITTING: KAY ARMSTRONG DATE SUBMITTED: 1/29/07 SUBMITTED BY: JB DATE RECEIVED JUDGE'S OFFICE:	
<u>1/30/2007</u>	3060	Ord Granting Mtn ...		FOR COURT APPOINTED FEES IN THE AMOUNT OF \$800.00 PAYABLE TO KAY ARMSTRONG	
<u>1/30/2007</u>	1315	** Case Closed			
<u>1/30/2007</u>	S200	Request for Submission Complet		ORDER GRANTING FEES	
<u>2/5/2007</u>	1130	Answer ...		TO PETITION AND SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)	
<u>2/5/2007</u>	2155	Mtn Partial Dismissal ...		MOTION FOR PARTIAL DISMISSAL OF PETITION AND SUPPLEMENTAL PETITION FOR WRIT OF HABASU CORPUS (POST CONVICTION)	
<u>2/20/2007</u>	3790	Reply to/in Opposition			
<u>3/5/2007</u>	3860	Request for Submission		DOCUMENT TITLE: MOTION FOR PARTIAL DISMISSAL OF PETITION AND SUPPLEMENTAL PETITION PARTY SUBMITTING: TERRY MCCARTHY DATE SUBMITTED: 3/6/07 SUBMITTED BY: JB DATE RECEIVED JUDGE'S OFFICE:	
<u>3/5/2007</u>	1325	** Case Reopened			
<u>8/2/2007</u>	3370	Order ...		ORDER PARTIALLY DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) AND ORDER TO SET HEARING	
<u>8/2/2007</u>	T200	Tickle End Code		ORDER PARTIALLY DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) AND ORDER TO SET HEARING	
<u>8/8/2007</u>	T200	Tickle End Code		EVIDENTIARY HEARING SET FOR 9/20/07 @ 1:30 P.M.	
<u>8/9/2007</u>	1250	Application for Setting		SET FOR 9/20/07 AT 1:30 PM	
<u>8/9/2007</u>	1325	** Case Reopened			
<u>8/20/2007</u>	3340	Ord to Produce Prisoner			
<u>8/20/2007</u>	1260	Application Produce Prisoner			

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Case ID: CR03P1263		Case Description: Case Type:	POST: FERRILL J. VOLPICELLI (D10)	Initial Filing Date: 11/9/2005
10/3/2007	MIN	**Minutes	09/20/07-PETITION FOR POST CONVICTION/EVIDENTIARY HEARING - Transaction 61059 - Approved By: NOREVIEW : 10-03-2007:10:06:22	
10/11/2007	2385	Mtn Proceed Forma Pauperis		
10/11/2007	1075	Affidavit ...	AFFIDAVIT OF KAREN S FRALEY	
10/11/2007	1030	Affidavit in Support...	AFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED IN FORMA PAUPERIS	
10/17/2007	3035	Ord Grant in Forma Pauperis		
10/25/2007	3860	Request for Submission	DOCUMENT TITLE: PETITION FOR POST-CONVICTION HABEAS CORPUS PARTY SUBMITTING: KAY ARMSTRONG DATE SUBMITTED: 10/25/07 SUBMITTED BY: JB DATE RECEIVED JUDGE'S OFFICE:	
10/25/2007	S200	Request for Submission Complet	ENTERED IN ERROR	
11/5/2007	1250	Application for Setting	CONTINUATION OF EVIDENTIARY HEARING SET FOR 1/23/08 @ 1:30 P.M.	
11/8/2007	4185	Transcript ...	PETITION FOR POST CONVICTION - SEPT 20, 2007	
11/8/2007	4185	Transcript ...	EVIDENTIARY HEARING ON PETITION FOR POST CONVICTION - HEARD 9/20/07	
11/8/2007	4185	Transcript ...	9/20/2007 PETITION FOR POST CONVICTION	
11/8/2007	4185	Transcript ...	9/20/07 PETITION FOR POST CONVICTION	
11/8/2007	4185	Transcript ...	9/20/2007 PETITION FOR POST CONVICTION	
12/5/2007	3370	Order ...		
12/5/2007	3860	Request for Submission		
12/5/2007	4270	Waiver of Appearance		
12/21/2007	2490	Motion ...	MOTION FOR COURT APPOINTED FEES WITH AFFIDAVIT IN SUPPORT	
12/21/2007	3860	Request for Submission	DOCUMENT TITLE: MOTION FOR COURT APPOINTED FEES PARTY SUBMITTING: KAY ARMSTRONG DATE SUBMITTED: 12/24/07 SUBMITTED BY: JB DATE RECEIVED JUDGE'S OFFICE:	
12/21/2007	2610	Notice ...	OF WAIVER OF APPEARANCE	
1/8/2008	3060	Ord Granting Mtn ...	ORDER GRANTING MOTION FOR COURT APPOINTED FEES	
1/8/2008	S200	Request for Submission Complet	ORDER GRANTING MOTION FOR COURT APPOINTED FEES (\$3,240.56)	
1/28/2008	1250	Application for Setting	02/14/2008 @ 1:30 P.M. - PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION HEARING	
1/30/2008	4050	Stipulation ...	STIPULATION FOR CONTINUANCE	
2/14/2008	1315	** Case Closed		
3/5/2008	MIN	**Minutes	FEBRUARY 14, 2008 - WRIT OF HABEAS CORPUS - Transaction 152335 - Approved By: NOREVIEW : 03-05-2008:10:20:23	

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-REPORT MAY CONTAIN SEALED CASE INFORMATION-

Case ID: CR03P1263		Case Description:	POST: FERRILL J. VOLPICELLI (D10)	Initial Filing Date: 11/9/2005
		Type:	POST CONVICTION	
<u>4/14/2008</u>	1750	Findings, Conclusions & Judg		
<u>4/24/2008</u>	4185	Transcript ...	POST CONVICTION - 2/14/08	
<u>5/8/2008</u>	2515	Notice of Appeal Supreme Court		
<u>5/12/2008</u>	1310	Case Appeal Statement		
<u>5/12/2008</u>	1350	Certificate of Clerk		
<u>5/12/2008</u>	1365	Certificate of Transmittal		

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NOT FOR DISTRIBUTION
TO THE PUBLIC

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE

Case History - CR03W1263

DEPT. D9

HON. ROBERT H. PERRY

Report Date & Time
5/12/2008
9:35:54AM

Case ID:	CR03W1263	Case Description:	WRIT: FERRILL JOSEPH VOLPICELLI (D9) HABEAS CORPUS - CRIMINAL	Initial Filing Date:	8/8/2003
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Parties	
RESP PETR DA DATY	STATE OF NEVADA - STATE FERRILL JOSEPH VOLPICELLI - @67988 Richard Allen Gammick, Esq. - 1510 Bradley O. Van Ry, Esq. - 7198

Charges			
Charge No.	Charge Code	Charge Date	Charge Description

Plea Information			
Charge No.	Plea Code	Plea Date	Plea Description

Release Information
Custody Status

Hearings		
Department	Event Description	Sched. Date & Time
1		
Extra Text:		Disposition:

Agency Cross Reference		
Code	Agency Description	Case Reference I.D.

Actions			
Action Entry Date	Code	Code Description	Text
8/8/2003	3665	Points&Authorities Support...	
8/8/2003	3585	Pet Writ Habeas Corpus	
8/18/2003	3897	Return	

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-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-**

Case ID:	CR03W1263	Case Description:	Case Type:	WRIT: FERRILL JOSEPH VOLPICELLI (D9)	HABEAS CORPUS - CRIMINAL	Initial Filing Date: 8/8/2003
<u>9/4/2003</u>	2650	Opposition to		PETITION FOR WRIT		
<u>9/12/2003</u>	3860	Request for Submission		DOCUMENT TITLE: PETITION FOR WRIT		
				PARTY SUBMITTING: DA		
				DATE SUBMITTED: 9-24-03		
				SUBMITTED BY: GVELARDE		
<u>9/17/2003</u>	3795	Reply...		DATE RECEIVED JUDGE'S OFFICE: 9/25/03		
				REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS		
				CORPUS		
<u>4/1/2004</u>	1315	** Case Closed		DEFENDANT SENTENCED IN UNDERLYING CASE ON 4/1/04		

-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-

ORIGINAL

FILED

2008 APR 14 AM 11:35

NO LARDW. COFFERS

[Handwritten signature]

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

FERRILL JOSEPH VOLPICELLI,

Petitioner,

v.

Case No. CR03P1263

LENARD VARE, WARDEN,

Dept. No. 10

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND JUDGMENT

This cause is before the court upon a petition for writ of habeas corpus (post-conviction). Petitioner Volpicelli was represented by counsel when he stood trial for several charges stemming from a scheme involving changing UPC price codes in retail stores. He was found guilty of several felonies and at sentencing the court sentenced him as a habitual criminal. He appealed, but the judgment was affirmed. He then filed a petition for writ of habeas corpus, asserting claims of ineffective assistance of counsel.

The State moved to dismiss some of the claims. On August 27, 2007 this court entered an order dismissing some of the claims and allowing a hearing on claims 7, 11, 12 and 14. The court incorporates that interim order into this final judgment.

The surviving claims were scheduled for a hearing on September 20, 2007. The court

1 heard evidence from attorney Van Ry and from the prosecutor, Tammy Riggs. Petitioner
2 elected not to testify. Some of the claims concerned alleged prior inconsistent statements by a
3 witness at the trial. The alleged prior statements mostly arose during an interview between
4 that witness and police officers. The court was also able to review the transcripts of those
5 interviews. These findings are based on the evaluation of the record, the transcripts of the
6 police interviews and the evidence adduced at the habeas corpus hearing.

7 One of the claims involved restitution. The claim of ineffective assistance of counsel,
8 however, was based on a chart showing the disposition of stolen property. That chart was
9 prepared well after this litigation, by an Assistant City Attorney who was not involved in the
10 instant litigation. In argument, counsel for petitioner conceded that trial counsel could not be
11 ineffective in failing to utilize that which did not exist at the time. Accordingly, the claim that
12 counsel was ineffective in failing to challenge the amount of restitution is denied.

13 Another claim was that the prosecutor failed to produce exculpatory evidence. By the
14 end of the hearing the petitioner had not adduced any evidence that had not been provided to
15 the defense. Accordingly, the claim of withholding evidence remains unproven and is denied.

16 Another claim is that trial counsel was ineffective in failing to adduce additional
17 evidence to show the extent of the plea bargain that was accepted by Volpicelli's confederate,
18 witness Brett Bowman. The record reveals that Bowman had already been sentenced by the
19 time of Volpicelli's trial and the details of the agreement were fully disclosed in the trial.
20 Petitioner has not introduced any evidence of any other or additional terms to Bowman's plea
21 agreement and so that claim, too, remains unproven.

22 Finally, the petition had a list of alleged prior statements by Bowman that could have
23 been used to impeach Bowman's testimony. The court has reviewed the trial transcripts and
24 the transcripts of Bowman's interviews with police and finds nothing significant. Certainly
25 there is nothing that would probably have altered the outcome of the trial. On that subject, the
26 court notes that Bowman did not testify in the habeas corpus hearing and thus there is no

1 evidence at all about how Bowman would have responded if he had been questioned further
2 about his prior statements.

3 Most of the alleged inconsistent statements were not inconsistent at all. For example, at
4 trial Bowman was asked if he has purchased a certain bit of equipment at a Staples store in
5 California. He answered "no." The alleged inconsistent statement arises from interview
6 transcripts in which he admitted purchasing the device, but without any reference to the name
7 of the store or the state in which it was purchased. Thus, the prior statement is not
8 inconsistent at all. To the extent that the prior statement could have been used to start a
9 dialogue, the court notes again that Bowman did not testify in the habeas corpus hearing and
10 there is therefore no evidence showing how he would have responded to additional questions
11 on the subject of purchasing the label making device.

12 Similarly, at trial he was asked specifically if police officers helped him get a paycheck
13 from the Sands casino and he denied getting such help. The interview transcripts do not
14 contradict that testimony as they only indicate that he had indeed got his paychecks but that
15 they were in his personal property. The police offered only to help him negotiate the checks.
16 That is not inconsistent with his trial testimony and there is no evidence showing how further
17 discussions would have helped petitioner in any way.

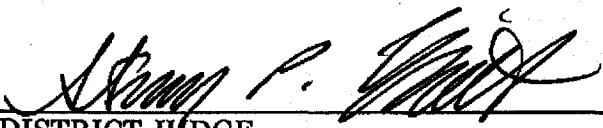
18 At trial, Bowman minimized his share of the loot. Volpicelli contends that he could have
19 been impeached with evidence that Bowman also acquired some home electronics. The
20 interview transcripts, however, are not inconsistent as they do not show that the home
21 electronics were stolen in the scheme with Volpicelli. Instead, Bowman claimed to have
22 purchased those items. Volpicelli has adduced no evidence to the contrary and so the claim
23 that counsel was ineffective in failing to impeach remains unproven.

24 The court has reviewed the evidence presented, including the transcripts of police
25 interviews, and finds nothing that would have been likely to alter the outcome of this litigation.

26 One who would claim ineffective assistance of counsel bears the burden of showing, by a

1 preponderance of the evidence, that the specific acts, omissions or decisions of counsel fell
2 below an objective standard of reasonableness and that but for the failings of counsel a
3 different result was reasonably probable. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct.
4 2052 (1984). This court has simply not been persuaded by the evidence that counsel acted
5 unreasonably or that the results would probably have been different if counsel had made
6 different decisions. Accordingly, the petition is denied.

7 DATED this 11 day of April, 2008.

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10 DISTRICT JUDGE

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Stellenbuch

FILED

Electronically
10-03-2007:10:06:02 AM
Ronald A. Longtin, Jr.
Clerk of the Court
Transaction # 61059

CASE NO. CR03P1263

POST: FERRILL J. VOLPICELLI

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

09/20/07

HONORABLE

STEVEN P.

ELLIOTT

DEPT. NO. 10

M. Merkouris

(Clerk)

J. Schonlau

(Reporter)

PETITION FOR POST CONVICTION/EVIDENTIARY HEARING

Deputy District Attorney Terrence McCarthy represented the State.

Petitioner was present with counsel, Kay Armstrong, Esq.

Counsel Armstrong moved to invoke the rule of exclusion; no
objection; SO ORDERED.Counsel Armstrong called Bradley Van Ry who was sworn and
examined; cross examined; re-direct examined and excused.State called Deputy District Attorney Tammy Riggs who was sworn
and examined; cross examined; re-direct examined; excused.

2:45 p.m. – Court stood in recess.

3:00 p.m. – Court reconvened.

Counsel Armstrong requested time to obtain an affidavit to
supplement Exhibit A; State objected; COURT found that the
Petitioner will be allowed time to attempt to supplement Exhibit A.
COURT further ordered that it will go forward today on items #11, 12
and 14.

Counsel Armstrong argued in support of the petition.

State argued in opposition of the petition.

Counsel Armstrong had no further argument.

COURT presented it's findings of fact and conclusions of law and
ruled in favor of the State. Items #11, 12 and 14 are hereby denied.COURT further reserved it's ruling as to item #7 upon further review
of the evidence.

3:15 p.m. – Court stood in recess.

3:20 p.m. – Court reconvened.

**State's exhibit 1 marked and offered; no objection; ordered
ADMITTED into evidence.**

3:24 p.m. – Court concluded and stood in recess.

FILED

Electronically

03-05-2008:10:19:53 AM

Howard W. Conyers

Clerk of the Court

Transaction # 152335

CASE NO. CRP3P1263

POST: FERRILL J. VOLPICELLI

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

02/14/08

HONORABLE

STEVEN P.

ELLIOTT

DEPT. NO. 10

C. Wynn

(Clerk)

J. Schonlau

(Reporter)

HEARING RE: PETITION FOR POST CONVICTION

CONTINUATION OF WRIT OF HABEAS CORPUS HEARING

Deputy District Attorney Terry McCarthy represented Respondent, State of Nevada. Kay Armstrong, Esq. represented Petitioner, Ferrill Joseph Volpicelli who was not present.

COURT noted the issues that were denied during the last hearing; further indicated the last remaining issue as to ground (7) seven regarding restitution.

Counsel Armstrong addressed the Court and reviewed exhibit 5; further made statements regarding the list of property totaling over \$10,000.00 and the affidavit filed with the City Attorney; and further presenting statement in support of the petition.

Counsel McCarthy addressed the Court reviewing the two prongs and further presenting statement in opposition to the petition.

COURT presented its findings of fact and conclusions of law.

COURT ORDERED: Request for relief if hereby DENIED.

CASE NO. CR03-1263

DEPT. NO. 10

STATE OF NEVADA

VS.

FERRILL JOSEPH VOLPICELLI

TRIAL DATE: 11/12/03

JUDGE: STEVEN ELLIOTT
CLERK: GREG BARTLETT
REPORTER: D. GUSTIN/E. STUBBS

D.A.: TAMMY RIGGS
DEFT'S ATTY: BRADLEY VAN RY

COURT APPOINTED
PUBLIC DEFENDER

VERDICT(S): GUILTY COUNT I: CONSPIRACY TO COMMIT CRIMES AGAINST
PROPERTY
GUILTY COUNTS II THROUGH IX: BURGLARY
GUILTY COUNT X: UNLAWFUL POSSESSION, MAKING, FORGERY OF
COUNTERFEITING OF INVENTORY PRICING LABELS

SENTENCING DATE: DECEMBER 23, 2003 AT 8:30 A.M.

CRIMINAL PROGRESS SHEET

INF. Indictment
 AI. _____
 2AI. _____
 2INF. _____

CASE NO. CR03-1263

DEFT: FERRILL JOSEPH VOLPICELLI @ 67988

LANGUAGE:

CUSTODY STATUS: CUSTODY ☒ NIC ☐ BAIL ☐ \$ _____ OR ☐ OR ☐ W/COURT SERVICES

ARR. DATE: 6/18/03 DEPT. NO. 9 REPORTER: D. Davidson CLERK: Ch. Jerns

TRUE NAME: ✓

- ☒ HANDED COPY
- ☒ WAIVED READING
- ☐ REQUESTED TIME TO PLEA
- ☐ REFERRED TO DRUG COURT
- ☐ ACCEPTED TO DRUG COURT
- ☐ WAIVED PSI

WAIVED 60 DAY RULE: YES ☒ NO ☐ DATE: _____

P & P Ref: H. Poe

NOT GUILTY ☒ By: _____ GUILTY ☐ ALFORD ☐ NC ☐ TO: Indictment

REMANDED TO JUSTICE COURT FOR FURTHER PROCEEDINGS: _____

MOTION FOR PSYCH. EVAL: DATE: _____ DEPT. NO. _____ APPTD. DRS.: _____ & _____

REPORT ON PSYCH. EVAL: DATE: _____ DEPT. NO. _____ REPORTER: _____ CLERK: _____

COURT FOUND DEFT: ☐ COMPETENT ☐ REMANDED J.C. ☐ INCOMPETENT; DEFT REMANDED LAKES

ENTRY OF PLEA: DATE: _____ DEPT. NO.* _____ REPORTER: _____ CLERK: _____

NOT GUILTY ☐ By: _____ GUILTY ☐ ALFORD ☐ NC ☐ TO: _____

☐ WAIVED PSI P & P Ref: _____

CHANGE OF PLEA: DATE: _____ DEPT. NO. _____ REPORTER: _____ CLERK: _____

GUILTY ☐ ALFORD ☐ NC ☐ TO: _____

☐ WAIVED PSI P & P Ref: _____ TRIAL DATE OF: _____ VACATED

CONTINUED TO: 9/24/03 @ 8:30 am FOR: MTC

CONTINUED TO: 10/16/03 @ 8:30 am FOR: Jury Trial (4 Days) vacated

CONTINUED TO: 10-24-03 08:30 FOR: MTC

CONTINUED TO: 11-10-03 08:30 FOR: Jury Trial

CONTINUED TO: _____ FOR: _____

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CRIMINAL PROGRESS SHEET CONTINUED

CASE NO. CR03-1263

JUDGMENT DEFERRED: DATE: _____ DEPT. NO. ____ REPORTER: _____ CLERK: _____

NRS 453 [] NRS 458 [] PROBATION: _____ \$25 AAF [] \$60 CAF [] \$150 DNA []

RESTITUTION: \$ _____ ATTY. FEES: \$ _____

CASE TRANSFERRED TO DEPT. 7/DIVERSION COURT [] DEPT. ____ RETAINED JURISDICTION []

REVOKE DEFERRED STATUS: DATE: _____ DEPT. NO. ____ REPORTER: _____ CLERK: _____

GRANTED [] DEFT FORMALLY SENTENCED

DATE: _____ DEPT. NO. ____ REPORTER: _____ CLERK: _____

[] 190 DAY REGIMENTAL DISCIPLINE - CONTINUED TO: _____ FOR: SENTENCING

SENTENCING: DATE: 4-1-04 DEPT. NO. 10 REPORTER: L. Urnston CLERK: Bartlett

DISPOSITION See Attached

\$25 AAF [] \$60 CAF [] \$150 DNA [] \$ _____ PSE FEE [] \$35 DBA [] ATTY FEES: \$ _____

FINE: \$ _____ RESTITUTION: \$ _____ BAIL EXONERATED: [] TIME SERVED: _____

PROBATION REVOKED: [] DATE: _____ DEPT. NO. ____ REPORTER: _____ CLERK: _____

TIME SERVED REVO: _____

MOTIONS: 9-24-03 (Davidson) S. Sattler motion to Confirm -
Cnsel State indicated this matter had been
reset with the Administrative Assistant
11-10-03 (P. Hoags) Hearing - Trial to proceed as
scheduled.

e-filed

CASE NO. CR03P1263

POST: FERRILL J. VOLPICELLI

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

09/20/07

HONORABLE

STEVEN P.

ELLIOTT

DEPT. NO. 10

M. Merkouris

(Clerk)

J. Schonlau

(Reporter)

PETITION FOR POST CONVICTION/EVIDENTIARY HEARING

Deputy District Attorney Terrence McCarthy represented the State.

Petitioner was present with counsel, Kay Armstrong, Esq.

Counsel Armstrong moved to invoke the rule of exclusion; no objection; SO ORDERED.

Counsel Armstrong called Bradley Van Ry who was sworn and examined; cross examined; re-direct examined and excused.

State called Deputy District Attorney Tammy Riggs who was sworn and examined; cross examined; re-direct examined; excused.

2:45 p.m. – Court stood in recess.

3:00 p.m. – Court reconvened.

Counsel Armstrong requested time to obtain an affidavit to supplement Exhibit A; State objected; COURT found that the Petitioner will be allowed time to attempt to supplement Exhibit A.

COURT further ordered that it will go forward today on items #11, 12 and 14.

Counsel Armstrong argued in support of the petition.

State argued in opposition of the petition.

Counsel Armstrong had no further argument.

COURT presented it's findings of fact and conclusions of law and ruled in favor of the State. Items #11, 12 and 14 are hereby denied.

COURT further reserved it's ruling as to item #7 upon further review of the evidence.

3:15 p.m. – Court stood in recess.

3:20 p.m. – Court reconvened.

State's exhibit 1 marked and offered; no objection; ordered ADMITTED into evidence.

3:24 p.m. – Court concluded and stood in recess.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

04/01/04
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
L. Urmston
(Reporter)

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE

Deputy D.A. Tammy Riggs represented the State.
Defendant present with counsel, Bradley Van Ry.
Probation Officer, Erin Lukl, also present.
Counsel for Defendant informed the Court that he will reserve his
argument till after the State's argument.
Counsel for State marked exhibits 1 through 3.
Scott Hopkins was called by counsel for State, sworn and testified.
During the testimony of witness Hopkins, the following exhibit was
ordered marked and admitted by the Court:

State's exhibit 4

Reid Thomas was called by counsel for State, sworn and testified.
During the testimony of witness Reid, the following exhibit was
ordered marked and admitted by the Court:

State's exhibit 5

Counsel for State discussed the Defendant's criminal history, the
negative economic impact on the community and presented
argument in support of the Court finding the Defendant an habitual
criminal.

Court made finding that State's exhibits 1 through 3 were
constitutionally valid proof of prior felony convictions; COURT
ORDERED: State's exhibits 1 through 3 are hereby admitted.
Counsel for Defendant discussed the Defendant's mental illness
and the length of time the Defendant has spent in custody and
objected to State's recommendation to find the Defendant an
Habitual Criminal. Counsel for Defendant urged the Court to
impose a one (1) to ten (10) year sentence on each burglary count
and have counts II through V run concurrently with counts VI
through IX.

During the argument, counsel for Defendant marked and moved for
the admission of exhibits 6 and 7; no objection by counsel for State.
COURT ORDERED: Defendant's exhibits 6 and 7 are hereby
admitted.

Officer Lukl stands by the recommendation of the Division.

Defendant made a statement to the Court.

Counsel for State presented further argument in support of the
State's recommendation.

COURT ORDERED: Judgment entered. The Court having

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

04/01/04
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
L. Urmston
(Reporter)

ENTRY OF JUDGEMENT AND IMPOSITION OF SENTENCE
CONTINUED

adjudged the Defendant to be a Habitual Criminal as provided for under NRS 207.010, upon a felony conviction, followed by proof of the three (3) prior felonies, the Court hereby sentences the Defendant to Washoe County Jail for the term of twelve (12) months, to run concurrently with Counts II through X, as to Count I. As to Count II, the Defendant is sentence in the Nevada State Prison for the term of Life with parole eligibility beginning after ten (10) years has been served. As to Count III, the Defendant is sentence in the Nevada State Prison for the term of Life with parole eligibility beginning after ten (10) years has been served, to run concurrently with Count II. As to Count IV, the Defendant is sentence in the Nevada State Prison for the term of Life with parole eligibility beginning after ten (10) years has been served, to run concurrently with Count III. As to Count V, the Defendant is sentence in the Nevada State Prison for the term of Life with parole eligibility beginning after ten (10) years has been served, to run concurrently with Count IV. As to Count VI, the Defendant is sentence in the Nevada State Prison for the term of Life with parole eligibility beginning after ten (10) years has been served, to run concurrently with Count V. As to Count VII, the Defendant is sentence in the Nevada State Prison for the term of Life with parole eligibility beginning after ten (10) years has been served, to run concurrently with Count VI. As to Count VIII, the Defendant is sentence in the Nevada State Prison for the term of Life with parole eligibility beginning after ten (10) years has been served, to run concurrently with Count VII. As to Count IX, the Defendant is sentence in the Nevada State Prison for the term of Life with parole eligibility beginning after ten (10) years has been served, to run concurrently with Count VIII. As to Count X, the Defendant is sentence in the Nevada State Prison for the term of Life with parole eligibility beginning after ten (10) years has been served, to run consecutively to Count IX. The above sentence shall be served consecutively to any other sentence the Defendant is obligated to serve.

CASE NO. CR03-1263

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

04/01/04
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE
CONTINUED

G. Bartlett
(Clerk)
L. Urmston
(Reporter)

The Defendant is further ordered to pay the statutory Twenty-Five Dollar (\$25.00) administrative assessment fee, a One Hundred Fifty Dollar (\$150.00) DNA testing fee, restitution in the amount of Ten Thousand Three Hundred Thirty-Nine Dollars and Sixteen Cents (\$10,339.16) and reimburse the County of Washoe the sum of Five Hundred Dollars (\$500.00) for legal representation by the Washoe County Public Defender's Office. The Defendant is given credit for zero (0) days time served.
Defendant remanded to the custody of the Sheriff.

STATE VS. FERRILL JOSEPH VOLPICELLI

SENTENCING DATE 4/1/04 DEPT. 10 REPORTER: L. URMSTON
CLERK: G. BARTLETT

\$25.00 AAF
\$150.00 DNA
\$10,339.16 REST
\$500.00 AF

Count I: WCJ 12 MOS., TO RUN CONCUR. WITH COUNTS II THROUGH X
Count II: NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS
BEEN SERVED

Count III: NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS
BEEN SERVED, TO RUN CONCUR. W/ COUNT II

Count IV: NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS
BEEN SERVED, TO RUN CONCUR. W/ COUNT III

Count V: NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS
BEEN SERVED, TO RUN CONCUR. W/ COUNT IV

Count VI: NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS
BEEN SERVED, TO RUN CONCUR. W/ COUNT V

Count VII: NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS
BEEN SERVED, TO RUN CONCUR. W/ COUNT VI

Count VIII: NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS
BEEN SERVED, TO RUN CONCUR. W/ COUNT VII

Count IX: NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS
BEEN SERVED, TO RUN CONCUR. W/ COUNT VIII

Count X: NSP LIFE W/ PAROLE ELIGIBILITY BEGINNING AFTER 10 YRS HAS
BEEN SERVED, TO RUN CONSEC. TO COUNTS ~~I~~ II THROUGH IX

SAID SENTENCE IS TO BE RUN CONSEC. TO ANY OTHER SENTENCE THE
DEFENDANT IS OBLIGATED TO SERVE.

DEFENDANT IS GIVEN ZERO (0) DAYS TIME SERVED CREDIT.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

11/12/03
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
D. Gustin
(Reporter)

JURY TRIAL

Deputy D.A. Tammy Riggs represented the State.
Defendant was present with counsel, Bradley Van Ry.
Introductions of Court, counsel, Court personnel and respective parties were made to the prospective jurors.
All prospective jurors were sworn to answer questions touching upon their qualifications to serve as jurors in this case.
General and specific examination was had of the prospective jurors in the box.
Following peremptory challenges, the following twelve (12) jurors and one (1) alternate(s) were sworn to try this case:

Russell Christiansen	Caston Kennard
Eric Morgan	Richard McNeely
Gerald Jackson	Diane Estep
Tony Major	Christina Dutra
Heather Harzke	Carlotta King
Joy White	Florence Albee

Alternate(s): Wallace Peterson

Upon direction of the Court, the Clerk read the Indictment which was filed in this case and stated the Defendant's plea thereto.
The jurors were admonished prior to each recess throughout the trial and respective counsel stipulated to their presence each time the Court convened.
Outside the presence of the jury, respective counsel stipulated to the admission of State's exhibits 1 through 10 and 12 through 43.
COURT ORDERED: State's exhibits 1-10 and 12-43 admitted.
The jury returned to the courtroom
Respective counsel presented opening statements.
Counsel for Defendant moved to invoke the rule of exclusion; **SO ORDERED.**
David Della was called by counsel for State, sworn, testified and cross-examined.
Karinah Prevost was called by counsel for State, sworn and testified.
John David Ellis, Jr. was called by counsel for State, sworn, testified and cross-examined.
Brett Bowman was called by counsel for State, sworn, testified and cross-examined.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

11/12/03
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
D. Gustin
(Reporter)

JURY TRIAL, CON'T

The following exhibit was ordered admitted during the testimony of witness Bowman:

State's exhibit 11

COURT ORDERED: The trial is continued until Thursday, November 13, 2003 at 10:30 a.m. The jurors were excused until said time.

Outside the presence of the jury, respective counsel reserved their right to recall witness Bowman.

Counsel for Defendant informed the Court that the Defendant would like the opportunity to further cross-examine the witnesses; objection and response by counsel for State.

COURT ORDERED: All cross-examination shall be performed by defense counsel. Counsel for State informed the Court that defense counsel had gone into the character evidence of witness Bowman, therefore the State should be allowed to present evidence to the jury of where witness Bowman and the Defendant met; objection and response by counsel for Defendant.

COURT ORDERED: The State is hereby prohibited to present evidence of where witness Bowman and the Defendant had met.

COURT ORDERED: The trial is continued until Thursday, November 13, 2003 at 10:30 a.m.

11/13/03
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
D. Gustin
(Reporter)

JURY TRIAL, CON'T

Deputy D.A. Tammy Riggs represented the State.

Defendant was present with counsel, Bradley Van Ry.

Scott Armitage was called by counsel for State, sworn, testified and cross-examined.

The following exhibits were ordered marked and admitted during the testimony of witness Armitage:

State's exhibits 44-46

Larry Lodge was called by counsel for State, sworn, testified and cross-examined.

Michael Brown was called by counsel for State, sworn, testified and cross-examined.

Greg Danielson was called by counsel for State, sworn, testified and cross-examined.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

11/13/03
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
D. Gustin
(Reporter)

JURY TRIAL, CON'T

Willard Mowery was called by counsel for State, sworn, testified and cross-examined.

Reed Thomas was called by counsel for State, sworn, testified and cross-examined.

State rests.

Outside the presence of the jury, the Court canvassed the Defendant as to his right to testify on his own behalf.

Counsel for Defendant moved to dismiss the case and presented argument thereto; objection and response by counsel for State.

COURT ORDERED: Motion to dismiss denied.

Further discussion between Court and respective counsel.

The jury returned to the courtroom.

COURT ORDERED: The trial is continued until Friday, November 14, 2003 at 10:00 a.m.

11/14/03
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
D. Gustin
(Reporter)

JURY TRIAL, CON'T

Deputy D.A. Tammy Riggs represented the State.

Defendant was present with counsel, Bradley Van Ry.

Defense rested.

The Court and respective counsel met in chambers for the purpose of settling jury instructions as noted in the stenographic record.

Instructions #1 through #37 and twenty (20) verdict forms were offered.

The jury returned to the courtroom.

Court read Jury Instructions #1 through #37 to the jury.

Closing arguments were presented by respective counsel.

Court proposed the alternate juror be excused, subject to recall; no objection by respective counsel.

At 2:10 p.m. the Bailiff was sworn by the Clerk to take charge of the jury during their deliberations.

Court stood in recess, subject to call of the jury.

At 3:50 p.m. the jury returned to the courtroom and the Clerk read the following verdicts:

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

11/14/03
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
D. Gustin
(Reporter)

JURY TRIAL, CON'T

VERDICT

We, the jury in the above-entitled matter, find the defendant, FERRILL JOSEPH
VOLPICELLI, GUILTY of COUNT I: CONSPIRACY TO COMMIT CRIMES
AGAINST PROPERTY

DATED this 14 day of November, 2003.

/s/ Joy White
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the defendant, FERRILL JOSEPH
VOLPICELLI, GUILTY of COUNT II: BURGLARY

DATED this 14 day of November, 2003.

/s/ Joy White
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the defendant, FERRILL JOSEPH
VOLPICELLI, GUILTY of COUNT III: BURGLARY

DATED this 14 day of November, 2003.

/s/ Joy White
FOREPERSON

CASE NO. CR03-1263

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

11/14/03
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
D. Gustin
(Reporter)

JURY TRIAL, CON'T

VERDICT

We, the jury in the above-entitled matter, find the defendant, FERRILL JOSEPH
VOLPICELLI, GUILTY of COUNT IV: BURGLARY

DATED this 14 day of November, 2003.

/s/ Joy White
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the defendant, FERRILL JOSEPH
VOLPICELLI, GUILTY of COUNT V: BURGLARY

DATED this 14 day of November, 2003.

/s/ Joy White
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the defendant, FERRILL JOSEPH
VOLPICELLI, GUILTY of COUNT VI: BURGLARY

DATED this 14 day of November, 2003.

/s/ Joy White
FOREPERSON

CASE NO. CR03-1263

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

11/14/03
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
D. Gustin
(Reporter)

JURY TRIAL, CONT

VERDICT

We, the jury in the above-entitled matter, find the defendant, FERRILL JOSEPH
VOLPICELLI, GUILTY of COUNT VII: BURGLARY

DATED this 14 day of November, 2003.

/s/ Joy White
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the defendant, FERRILL JOSEPH
VOLPICELLI, GUILTY of COUNT VIII: BURGLARY

DATED this 14 day of November, 2003.

/s/ Joy White
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the defendant, FERRILL JOSEPH
VOLPICELLI, GUILTY of COUNT IX: BURGLARY

DATED this 14 day of November, 2003.

/s/ Joy White
FOREPERSON

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

11/14/03
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
D. Gustin
(Reporter)

JURY TRIAL, CON'T

VERDICT

We, the jury in the above-entitled matter, find the defendant, FERRILL JOSEPH VOLPICELLI, GUILTY of COUNT X: UNLAWFUL POSSESSION, MAKING, FORGERY OR COUNTERFEITING OF INVENTORY PRICING LABELS.

DATED this 14 day of November, 2003.

/s/ Joy White
FOREPERSON

Upon request of counsel for Defendant, Court ordered the jury polled and to the question "Are these the Verdicts to which you agree?", each juror for himself/herself and not one for the other, replied "yes".
The jurors were thanked and excused.
Formal sentencing was set for December 23, 2003 at 8:30 a.m.
Defendant remanded to the custody of the Sheriff.

0-5
12/5
revised

CASE NO. CR03-1263

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

11/10/03
HON. STEVEN P.
ELLIOTT
DEPT. NO. 10
G. Bartlett
(Clerk)
P. Hoogs
(Reporter)

HEARING RE: CONFLICT OF COUNSEL

Deputy D.A. Tammy Riggs represented the State.
Defendant present with counsel, Bradley Van Ry.
Counsel for State addressed the Court and stated that she has not received notice of motion for discharging of counsel.
Counsel for Defendant informed the Court that no formal has been filed and stated the Defendant had written letters informing him that the Defendant was not prepared for trial.
Court made inquiries of defense counsel regarding preparedness for trial; counsel for Defendant stated he was prepared for trial.
Counsel for State informed the Court that the Defendant had tried to delay the trial many times before.
Court made inquiries of Defendant regarding self-representation; Defendant responded that he would not represent himself.
COURT ORDERED: Trial set for Wednesday, November 12, 2003 is confirmed.
Court informed respective counsel that the writ filed by the defense had been denied by Judge Hardesty.
Counsel for State requested the Court to admonish the Defendant as to making any eleventh hour motions to delay the trial.
Court informed the Defendant that all motions must be brought to the Court's attention through defense counsel.

11/12/03
8:30 a.m.
Jury Trial

CASE NO. CR03-1263

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

09/24/03
HONORABLE
JAMES W.
HARDESTY
DEPT. NO. 9
S. Sattler
(Clerk)
D. Davidson
(Reporter)

MOTION TO CONFIRM TRIAL

Deputy D.A. Tammy Riggs represented the State.
Defendant present without counsel.
Counsel for State addressed the Court and indicated they had met
with his Administrative Assistant to continue this matter and noted
this was Mr. Van Ry's case.
Court indicated he believed this matter had been previously
continued and advised the Defendant not to speak to the Court
without his counsel.
Defendant remanded to the custody of the Sheriff.

10/24/03
at 8:30 a.m.
Motion to
Confirm

11/10/03
at 8:30 a.m.
Jury Trial

CASE NO. CR03-1263

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

06/18/03

ARRAIGNMENT

HONORABLE

Deputy District Attorney Tammy Riggs represented the State.

09/24/03

JAMES W.

Defendant was present with counsel, Jack Alian, Esq. Probation

8:30 a.m.

HARDESTY

Officer Heidi Poe was present on behalf of the Division of Parole and Probation.

Motion to Confirm

DEPT. NO. 9

C. Wynn

Defense counsel was handed a copy of the Information; waived formal reading.

10/06/03

(Clerk)

D. Davidson

TRUE NAME: FERRILL JOSEPH VOLPICELLI

8:30 a.m.

(Reporter)

Defendant entered a plea of Not Guilty; Defendant further waived the 60-day rule.

Jury Trial
(4 days)

COURT ORDERED: Matter continued for trial by jury.

Defendant was remanded to the custody of the Sheriff.

EXHIBITS

PLTF: STATE OF NEVADA
DEFT: FERRILL JOSEPH VOLPICELLI

PATY: T. Riggs
DATY: B. Van Ry

Case No: CR03-1263 Dept. No: 10 Clerk: G. Bartlett Date: 04/01/04

Exhibit No.	Party	Description	Marked	Offered	Admitted
1	State	Certified copy of prior felony conviction	4/1/04	No obj.	4/1/04
2	State	Certified copy of prior felony conviction	4/1/04	No obj.	4/1/04
3	State	Certified copy of prior felony conviction	4/1/04	No obj.	4/1/04
4	State	Picture of Deft.	4/1/04	No obj.	4/1/04
5	State	RPD Financial Impact report	4/1/04	No obj.	4/1/04
6	Deft	Various letters of completion	4/1/04	No obj.	4/1/04
7	Deft.	Various certificates	4/1/04	No obj.	4/1/04

Exhibits

Title: **POST: FERRILL J. VOLPICELLI**

PLAINTIFF: **STATE OF NEVADA** DDA: **TERRENCE MCCARTHY, ESQ.**

PETITIONER: **FERRILL J. VOLPICELLI** DATY: **KAY ARMSTRONG, ESQ.**

Case No: **CR03P1263**

Dept. No: **10**

Clerk: **M. MERKOURIS**

Date: **09/20/07**

Exhibit No.	Party	Description	Marked	Offered	Admitted
1	STATE	Reno Police Department Transcripts	09/20/07	No obj.	09/20/07

FILED

MAY 12 2008

HOWARD W. CONYERS, CLERK
By: *C. Kepler*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

FERRILL JOSEPH VOLPICELLI,

Appellant(s)

Case No. CR03P1263

vs.

Dept. No. 10

THE STATE OF NEVADA,

Respondent(s)

CERTIFICATE OF CLERK

I hereby certify that the enclosed documents are certified copies of the original pleadings
on file with the Second Judicial District Court, in accordance with the NRAP 3(e).

Dated: May 12, 2008

Howard W. Conyers, Clerk of the Court,

By: *C. Kepler*
Cathy Kepler, Appeals Clerk

FILED

MAY 12 2008

HOWARD W. CONYERS, CLERK
By: C. Kepler
DEPUTY CLERK

1365

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

FERRILL JOSEPH VOLPICELLI,

Appellant(s)

Case No. CR03P1263

vs.

Dept. No. 10

THE STATE OF NEVADA,

Respondent(s)

CERTIFICATE OF TRANSMITTAL

I hereby certify that the enclosed the Notice of Appeal and other required documents (certified copies) were delivered to the Second Judicial District Court mailroom system for transmittal to the Nevada Supreme Court.

Dated: May 12, 2008

Howard W. Conyers, Clerk of the Court,

By: C. Kepler

Cathy Kepler, Appeals Clerk

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

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

Supreme Court No. 51622
District Court Case No. CR031263

RECEIPT FOR DOCUMENTS

TO: Ferrill Joseph Volpicelli #79565
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Howard W. Conyers , District Court Clerk

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

05/14/08 Filing Fee Waived: Criminal.

05/14/08 Filed Certified Copy of proper person Notice of Appeal.
Appeal docketed in the Supreme Court this day.

DATE: May 14, 2008

Tracie Lindeman, Clerk of Court

By: _____
Deputy Clerk 