

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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4 FERRILL JOSEPH VOLPICELLI,

Case No. 51622

5 Appellant,

6 vs.

7 STATE OF NEVADA,

8 Respondent.

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**FILED**

SEP 15 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

APPELLANT'S SUPPLEMENTAL APPENDIX

Appeal from Order Denying Petition for  
Writ of Habeas Corpus (Post-Conviction)  
Second Judicial District Court, County of Washoe  
The Honorable Steven P. Elliott

Kay Ellen Armstrong  
Attorney at Law  
Nevada Bar I.D. No. 0715  
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Carson City, NV 89701  
(775) 883-3990  
Attorney for Appellant

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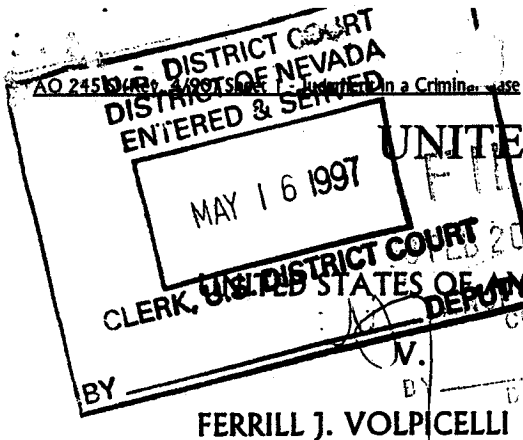
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RETURN TO U.S. DISTRICT COURT

*W. G. ...*



UNITED STATES DISTRICT COURT

District of NEVADA

JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)

Case Number: CR-N-96-46-HDM(RAM)

(Name of Defendant)

THE DEFENDANT:

Jerome Polaha (retained)

Defendant's Attorney

☒ pleaded guilty to count(s) 15, 16, 17, and 18

☐ was found guilty on count(s) \_\_\_\_\_ after a  
plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
26 USC 7206(1)	Tax Perjury	7-23-93	15, 16, 17 & 18

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_  
and is discharged as to such count(s).

☒ Count(s) 1 - 14 & 19 - 21 are dismissed on the motion of the United States.

☒ It is ordered that the defendant shall pay a special assessment of \$ 200.00 for count(s)  
15, 16, 17 & 18 which shall be due ☒ immediately as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 572-76-7620

Defendant's Date of Birth: 12-30-55

Defendant's USM No. 31441-048

Defendant's Mailing Address:

2705 Camelot Way  
Reno, NV 89509

Defendant's Residence Address:

Same

May 13, 1997

Date of Imposition of Sentence

*Howard D. McKibben*  
Signature of Judicial Officer

HOWARD D. McKIBBEN, U. S. District Judge

Name & Title of Judicial Officer

May 15, 1997

Date



CERTIFIED TO BE A TRUE COPY

Clerk, United States District Court

By *Wayne Julian*  
Deputy Clerk

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Defendant: VOLPICELLI, FERRILL J.  
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 2 of 5

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of Twenty-two (22) months on each of Counts 15, 16, 17 & 18, said terms of incarceration to run concurrently with one another.

X The court makes the following recommendations to the Bureau of Prisons: Recommend defendant be incarcerated at FPC Nellis, Nevada.

- ☐ The defendant is remanded to the custody of the United States marshal.  
☐ The defendant shall surrender to the United States marshal for this district.  
at on  
☐ as notified by the United States marshal.

- X The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.  
X before 12:00 noon on Friday, July 18, 1997.  
☐ as notified by the United States marshal.  
☐ as notified by the probation office.

## RETURN

I have executed this judgment as follows:

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Defendant delivered on 02-05-98 to FCI-SAF

at

Scottsdale, AZ

with a certified copy of this judgment.

Nancy Bailey, Warden  
~~United States Marshal~~

By P. Bingham, UE  
~~Deputy Marshal~~

Defendant: VOLPICELLI, FERRILL J.  
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 3 of 5

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of One (1) year.

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. (Revocation of supervised release is mandatory for possession of a controlled substance.) The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- X The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- X The defendant shall pay any fines that remain unpaid during the term of supervised release.
- X The defendant shall not possess a firearm or destructive device.

### ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. Defendant shall submit to the search of his person and any property, residence or automobile under his control by the probation officer, or any other authorized person under the immediate and personal supervision of the probation officer without a search warrant to ensure compliance with all conditions of release.
2. Defendant shall pay any remaining tax obligations during the term of supervised release, as directed by the probation office..
3. Defendant shall participate in and complete a mental health treatment program, which may include outpatient counseling or residential placement, as approved and directed by the probation officer and shall comply with the rules of the treatment program.
4. Defendant shall refrain from incurring any new credit charges, opening additional lines of credit, or negotiating or consummating any financial contracts without the approval of the probation officer.
6. Defendant shall provide the probation officer access to any requested financial information, including personal income taxes, authorization for release of credit information, and any other business financial information in which the defendant has a control or interest.
7. The defendant shall cooperate with and arrange with the Internal Revenue Service to pay all past and present taxes, interest and penalties owed, and shall file timely, accurate, and lawful income tax returns and show proof of same to the probation officer.
8. Defendant is not restricted to the State of Nevada during the period of supervised release.

### STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with notification requirement.

Defendant: VOLPICELLI, FERRILL J.  
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 4 of 5

**FINE**

The defendant shall pay a fine of \$ 3,000.00 . The fine includes any costs of incarceration and/or supervision.

☐ This amount is the total of the fines imposed on individual counts, as follows:

☐ The court has determined that the defendant does not have the ability to pay interest. It is ordered that:

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

This fine plus any interest required shall be paid:

☐ in full immediately.

☐ in full not later than \_\_\_\_\_.

☐ in equal monthly installments over a period of \_\_\_ months . The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.

☐ in installments according to the following schedule of payments:

☒ payable during and subsequent to the term of imprisonment. Any remaining balance shall be paid during the term of supervised release upon a schedule to be established by the supervising probation officer.

If the fine is not paid the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: VOLPICELLI, FERRILL J.  
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 5 of 5

STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report.

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 13

Criminal History Category: III

Imprisonment Range: 18 to 24 months

Supervised Release Range: - to 1 years

Fine Range: \$ 3,000 to \$ 30,000

☐ Fine is waived or is below the guideline range, because of the defendant's inability to pay.  
Restitution: \$ N/A

☐ Full restitution is not ordered for the following reason(s):

☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

☐ upon motion of the government, as a result of defendant's substantial assistance.  
☐ for the following reason(s):

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FILED

NOV 3 1998  
BETTY J. LEWIS, Clerk

By [Signature] Deputy Clerk

1 No. CR98-2160

2 Dept. No. 9

3  
4 **IN THE SECOND JUDICIAL DISTRICT COURT**  
5 **OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE**  
6

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8 **STATE OF NEVADA,**

**Reporter: D. Vieira**

9 **Plaintiff,**

10 **vs.**

**J U D G M E N T**

11 **FERRILL JOSEPH VOLPICELLI,**

12 **Defendant.**  
13 \_\_\_\_\_/

14 The Defendant, having entered a plea of Guilty, and no sufficient cause being shown  
15 by Defendant as to why judgment should not be pronounced against him, the Court rendered  
16 judgment as follows:

17 That Ferrill Joseph Volpicelli is guilty of the crime of Burglary, a violation of NRS  
18 205.060, a felony, as charged in Counts I and II of the Information, and that he be punished by  
19 imprisonment in the Nevada State Prison for a minimum term of twenty-four (24) months to a  
20 maximum term of seventy-two (72) months and by payment of a fine in the amount of Five Thousand  
21 Dollars (\$5,000.00) on Count I, to run consecutively to the Federal prison term he is obligated to  
22 serve; a minimum term of sixteen (16) months to a maximum term of seventy-two (72) months  
23 Nevada State Prison on Count II, to run consecutively to Count I. The sentence is suspended as to  
24 Count II and the Defendant is placed on probation for a period of time not to exceed three (3) years,  
25 to run consecutively to Count I and consecutively to the Federal prison term. The Defendant is given  
26 credit for eighty-seven (87) days time served. It is further ordered that the Defendant pay the

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1 statutory Twenty-Five Dollar (\$25.00) administrative assessment fee and pay the DNA fees of Two  
2 Hundred Fifty Dollars (\$250.00).

3 Dated this 3rd day of November, 1998.

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7 DISTRICT JUDGE  
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FILED

FEB 11 2004

RONALD A. LONGTIN, JR., CLERK

By: *[Signature]*  
DEPUTY

ORIGINAL

Code 1850

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

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0148

vs.

Dept. No. 9

FERRILL JOSEPH VOLPICELLI,

Reporter: D. Davidson

Defendant.

JUDGMENT

The Defendant, Ferrill Joseph Volpicelli, having been found Guilty on Count II of the Information by the Court on December 17, 2003, and no sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

That Ferrill Joseph Volpicelli is guilty of the crime of Aiding And Abetting In The Commission Of Attempting To Obtain Money By False Pretenses, a violation of NRS 193.330, NRS 195.020 and NRS 205.380, a felony, as charged in Count II of the Information, and that he be punished by imprisonment in the Nevada Department of Corrections for a maximum term of forty-eight (48) months with a minimum parole eligibility of twelve (12) months, with credit for zero (0) days time served to be served consecutively to the sentence imposed in case number CR03-1263.

It is further ordered that the Defendant pay the statutory Twenty-five Dollar (\$25.00) administrative assessment fee and reimburse the County of Washoe the sum of

1 Five Hundred Dollars (\$500.00) for legal representation by the Washoe County Public  
2 Defender's Office.

3 Dated this 11th day of February, 2004.  
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6 Connie J. Steinheimer for  
7 JAMES W. HARDESTY  
8 DISTRICT JUDGE  
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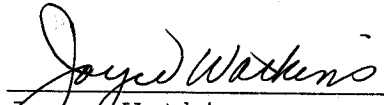
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Kay Ellen Armstrong, Attorney at Law, and on this date I deposited for mailing with the United States Postal Service a true copy of the attached APPELLANT'S SUPPLEMENTAL APPENDIX to:

Washoe County District Attorney  
Appellate Division  
One South Sierra St.  
Reno, NV 89520

Lovelock Correctional Center  
Ferrill Volpicelli #79565  
1200 Prison Road  
Lovelock, NV 89419-0359

September 15, 2009

  
Joyce Watkins