

STATE OF NEVADA
IN THE SUPREME COURT OF NEVADA

FILED

MAR 29 2012

MICHAEL TODD BOTELHO
ACCUSED, IN PRO-SE
-V-
JACK PALMER, WARDEN
STATE OF NEVADA, et al.
RESPONDENTS

CASE NO. CR03-2156, DEPT. NO. 3
PETITIONERS MOTION FOR WRIT OF MANDAMUS,
TO COMPEL THE SECOND (2ND) JUDICIAL
DISTRICT COURT OF THE STATE OF NEVADA
(WASHOE COUNTY)

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

COMES NOW, MICHAEL T. BOTELHO, IN PROPER PERSON, DENYING AND
CHALLENGING THE SECOND JUDICIAL DISTRICT COURTS (NV) AUTHORITY,
AND LACK OF SUBJECT-MATTER JURISDICTION IN THE MATTER OF; THE
STATE OF NEVADA -V- MICHAEL TODD BOTELHO, 2ND JUDICIAL DISTRICT
COURT, DEPT. NO. 3, CASE NO. CR03-2156, IN WHICH PETITIONER FILED
A PROPER PERSON HABEAS-CORPUS QUO-WARRANTO CHALLENGE OF THE
SECOND JUDICIAL DISTRICT COURTS LACK OF SUBJECT-MATTER JURISDICTION
ON DECEMBER 20, 2011.

FILED IN ACCORDANCE WITH; BALESTERI-V- PACIFICA POLICE DEPT., 901 F2d.
696 (9TH CIR. 1990); AND; BATEMAN-V- U.S. POSTAL SERVICE, 21 F3d. 1220-24 (9TH CIR. 2000)

FACTUAL ISSUES

- 1) PETITIONER FILED A PROPER-PERSON PETITION FOR WRIT OF HABEAS-CORPUS
IN A QUO-WARRANTO CHALLENGE TO WASHOE COUNTY DISTRICT ATTORNEY
TO DEFEND, AND/OR ANSWER THAT THE COLLECTIVE PUBLICATION
KNOWN AS "THE NEVADA REVISED STATUTES" ARE, AS RECORDED,
PUBLISHED, PRINTED, AND HELD OUT AS LAW, ARE IN FULL, PROPER
CONSTITUTIONAL NEVADA COMPLIANCE.

RECEIVED
MAR 28 2012
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

FACTUAL ISSUE(S)

- 2) PETITIONER ASSERTS THAT SAID PUBLICATION(S) (N.R.S.'s) ARE NOT IN COMPLIANCE WITH THE STATE OF NEVADA'S CONSTITUTION; ART. IV, SEC. 17, 23 AMENDING OF, AND ENACTING OF LAWS. IN THAT, AS PUBLISHED, NEVADA REVISED STATUTES ARE IN FACT, DEVOID OF THE REQUISITE ENACTING CLAUSE, DUE TO THE TRECHOROUS, REFUGNANT, AND TREASONOUS ACTS OF THE GROUP OF PERSONS KNOWN AS THE FORTY-EIGHTH (48) LEGISLATURE (NV) AND THEIR ACTS KNOWN AS: SENATE BILL TWO (2), AND SENATE BILL THREE (3) ON 25 JAN. 1957.
- 3) THOSE ACTS (S.B. 2/3) AMENDS THE CONSTITUTION OF THE STATE OF NEVADA THROUGH ACTS OF LEGISLATION, RATHER THAN THE REQUIRED AMENDMENT PROCESS. SEE: CHASE-V-ROGERS, 10 NEV. 250 (1875) AND NEVADA HIGHWAY PATROL ASSOC.-V-STATE OF NEVADA, DEPT. OF MOTOR VEHICLES, HIGHWAY PATROL DIV., SCT. CASE NO. 21369 REPORTED AS: 107 NEV. 547 (815 P.2d 608) (1991 NEV.) [AND, FINALLY,] "THE ENACTING CLAUSE OF EVERY LAW SHALL BE AS FOLLOWS: 'THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS'; AND 'NO LAW SHALL BE ENACTED EXCEPT BY BILL.'" NEVADA CONSTITUTION ARTICLE IV, § 23. (EMPHASIS ADDED). WE HAVE PREVIOUSLY RULED THAT THIS ENACTING CLAUSE IS MANDATORY, AND MUST BE INCLUDED IN EVERY LAW CREATED BY THE LEGISLATURE. SEE: STATE-V-ROGERS, 10 NEV. 250 (1875). SINCE THE COLLECTIVE PUBLICATION KNOWN AS THE NEVADA REVISED STATUTES, IS DEVOID OF THE REQUISITE ENACTING CLAUSE, THE "N.R.S STATUTE" "LAW(S)" THAT PETITIONER IS ACCUSED OF VIOLATING DO NOT HAVE THE FORCE, AND EFFECT OF VALID CONSTITUTIONAL

LAW(S) AND, AS SUCH, " WITHOUT SUCH AUTHORITY APPEARING UPON ITS FACE, IS NOT A LAW (10 NEV. 250).

4) IN THAT PETITIONER FILED, AND EXECUTED LEGAL SERVICE UPON (1) THE COURT, AND (2) RESPONDENT COUNSEL, ON THE 26TH DAY OF DECEMBER, 2011, AND HAS YET (AS OF THIS 26TH DAY OF MARCH, 2012, TO RECEIVE EITHER A (1) FILE-STAMPED COPY/RETURN FROM 2ND JUDICIAL DISTRICT COURT (2) ANSWER, AND/OR RESPONSIVE PLEADING(S) FROM RESPONDENT COUNSEL, WASHOE COUNTY DISTRICT ATTORNEYS OFFICE. A TIME FRAME OF 89 DAYS. WELL OUTSIDE OF ANY JUDICIAL TIMEFRAME, AND (3) RESPONDENTS FAILURE TO RESPOND TO PETITIONER'S FILE-STAMPED COPY OF DIRECTED VERDICT FILED ON MARCH 6, 2012. A TIMEFRAME OF 20 DAYS. WELL OUTSIDE OF ANY JUDICIAL TIMEFRAME.

5) IN THAT NON-ANSWER / NON-RESPONSE, FAILURE TO MOUNT AN AFFIRMATIVE DEFENSE, EQUALS CONSENT OF DEFECT; SEE F.R.C.P. RULE 8(c), (d). SEE ALSO F.R.C.P. RULE 7(c) "DEMURRES ABOLISHED" (1951).

6) RESPONDENTS HAVE CHOSEN TO STAND SILENT EVEN THOUGH "ESTOPPEL AND LACHES" APPLY (PETITIONER RE-ASSERTS THIS FACT) AND HAVE ADMITTED DEFECT, RATHER THAN PERJURE THEMSELVES IN TRYING TO ADVOCATE FOR RESPONDENT(S).

7) TO AVOID THE PENALTIES OF 18 USC § 2382 "MISPRISON OF TREASON" PETITIONER IS SERVING JUDICIAL NOTICE UPON "A JUSTICE OF A STATE," IN THIS CASE, NEVADA SUPREME COURT JUSTICE: MARK GIBBONS, JUSTICE; TO COMPLY WITH SEC. 2382'S REPORTING REQUIREMENT(S).

RELIEF REQUESTED

- 1) THAT THIS COURT FIND GOOD CAUSE SHOWING THAT RESPONDENTS COUNSEL FAILED / REFUSED TO RESPOND, AND GRANT DECLARATORY RELIEF / DEFAULT JUDGEMENT; AND STRIKE ANY AND ALL PLEADINGS, APPEALS, BRIEFS, ETC... AS UNTIMELY, AND/OR FUGITIVE.
- 2) OR ISSUE FORTH WRIT OF MANDAMUS ENFORCING THE STATE-V-ROGERS, 10 NEV. 250; NV. HIGHWAY PATROL-V-STATE, 107 NEV. 547; STATE-V-AHSAM; 15 NEV. 27; CAINE-V-ROBBINS; 61 NEV. 416; BELL-V-1ST J.D. COURT, 28 NEV. 280; AND EX-PARTE MANTELL AND RAIGEN, 47 NEV. 95 PRECEDENT RULINGS AND HOLD THAT "AS RECORDED, PUBLISHED, PRINTED, AND HELD OUT AS "LAWS"; THE "NEVADA REVISED STATUTES" ARE A NULLITY, VOID, AND UN-ENFORCEABLE AS LAW; ISSUE FORTH A WRIT OF PROHIBITION ENJOINING ANY, COURT, LAW ENFORCEMENT OFFICER, STATE OFFICIAL FROM REFERRING TO, AND/OR USING N.R.S. "STATUTE LAW" IN ANY MANNER.
- 3) GRANT RELIEF AS REQUESTED IN PETITIONERS FILING (ORIGINALLY FILED IN THE SECOND JUDICIAL DISTRICT COURT, WASHOE COUNTY, NEV.) AND DO SO IN A TIMELY MANNER, WITHIN TEN (10) CALENDAR DAYS.

- OR -

PETITIONER WILL BE FORCED TO SEEK RELIEF IN THE FEDERAL SYSTEM (SEE: 899 F.2d 1549-9TH CIR. 1990) WHERE THIS COURT CERTIFIED ANSWERS TO THE 9TH CIRCUIT COURT OF APPEALS.....

AFFIRMATION, CERTIFICATE OF SERVICE

I, MICHAEL T. BOTELHO, ACCUSED, IN PROPER PERSON, DO
SWEAR UNDER THE PENALTY OF PERJURY, UNDER THE LAWS
OF THE UNITED STATES OF AMERICA, THAT THE FOREGOING IS
TRUE AND CORRECT, PER 18 U.S.C. § 1621, 28 U.S.C. § 1746.....

DATED THIS 26TH DAY OF MARCH, 2012.

THAT I PLACED A TRUE ORIGINAL, AND/OR PHOTO-COPY OF
PETITIONERS WRIT OF MANDAMUS IN FIRST CLASS PRE-PAID,
U.S.P.S. MAIL SERVICES AT THE PRISON LAW LIBRARY ON THE
26TH DAY OF MARCH, 2012; ADDRESSED AS FOLLOWS:

1) NEVADA SUPREME COURT
CLERK OF THE COURT
201 S. CARSON ST. SUITE 201
CARSON CITY, NV. 89701

2) SECOND JUDICIAL DISTRICT COURT
75 COURT ST. BOX 30083
RENO, NEV. 89520-3083

Michael T. Botelho

MICHAEL T. BOTELHO # 80837

IN PROPER PERSON

NNCC BOX 7000

3) WASHOE COUNTY DISTRICT ATTORNEY
Room 214, Box 30083
RENO, NEV. 89520-3083

CARSON CITY, NV. 89702

AFFIRMATION

18 U.S.C. § 1621, AND 28 U.S.C. § 1746
The undersigned does hereby affirm that the preceding document, _____

WRIT OF MANDAMUS IN SUPPORT OF DIRECTED VERDICT

(Title of Document)

filed in case number: CRO3 P-2156

☒ Document does not contain the social security number of any person

-OR-

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

(State specific state or federal law)

-or-

☐ For the administration of a public program

-or-

☐ For an application for a federal or state grant

-or-

☐ Confidential Family Court Information Sheet

Date: 3-26-2012

Michael T Botelho
(Signature)

MICHAEL T. BOTE LHO
(Print Name)

(Attorney for)