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IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT HOLMES, III,
Appellant,
vs.
LAS VEGAS METROPOLITAN
POLICE DEPARTMENT,
Respondent.

Supreme Court No. 62274
District Court No. A537416
Due Date: January 22, 2013

FILED

JAN 17 2013

CIVIL PROPER PERSON APPEAL STATEMENT

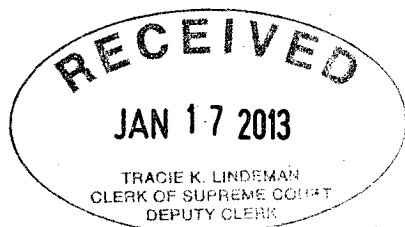
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

Robert Holmes, III
Inmate ID: 1034184
SDCC
P.O. Box 208
Indian Springs, NV 89018
Appellant in Proper Person

Thomas J. Moreo/District Attorney
200 Lewis Ave., 3rd Fl
Las Vegas, NV 89155

Robert Holmes, III
Appellant

Las Vegas Metropolitan Police
Department
Respondent



12. 11939

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
11-13-012	SUMMARY JUDGMENT

Notice of Appeal. Give the date you filed your notice of appeal in the district court: 12-5-012

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court

Issues on Appeal. Does your appeal concern any of the following issues? Check all that apply:

- | | | |
|--|---|---|
| ☐ divorce | ☐ child custody/visitation | ☐ child support |
| ☐ relocation | ☐ termination of parental rights | ☐ attorney fees |
| ☐ paternity | ☐ marital settlement agreement | ☐ division of property |
| ☐ adoption | ☐ prenuptial agreement | ☐ spousal support |
| ☒ other—briefly explain: <u>FORFEITURE COMPLAINT</u> | | |

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

ON NOVEMBER 30, 2006, SCAN SULLIVAN (ESQ), TURNED OVER \$170,000.00 TO SPECIAL AGENT S. SAMPLO, AND SPECIAL AGENT B. FULMER, OF I.C.E. FEDERAL AGENCY, WHO HAD REQUESTED THAT ROBERT HOLMES III SURRENDER \$145,000.00 IN ORDER TO PREVENT THE I.C.E. AGENTS FROM LOOKING INTO INDICTING ROBERT HOLMES III FOR FEDERAL CRIMES INVOLVING MONEY LAUNDERING...

THE SUM OF \$170,000.00 WAS NOT SETTED BY A LAWFUL

SEARCH WARRANT, A SUBPOENA, OR A COURT ORDER... THE DEFENDANT ROBERT HOLMES III SURRENDERED FUNDS THAT WAS GIVEN TO HIM BY FAMILY, FRIENDS, AND LOANS FROM FINANCIAL INSTITUTIONS.

ROBERT HOLMES III, NEVER RECEIVED ANY FUNDS FROM TONYA M. TREVARTHEN, DARYN MONROE, BRYAN M. FERGASON, FROM 2005 TO THIS DATE TO INCLUDE THE CLAIM WHICH IS UNSUPPORTED THAT TONYA M. TREVARTHEN, OVER A PERIOD OF TIME PROVIDED ROBERT HOLMES III, THE SUM OF \$ 145,000.00, WHICH WERE PROCEEDS FROM TUGGAL ACTIVITY, WHICH TONYA M. TREVARTHEN BENEFITED FROM AND ALSO THE TESTIMONY TO LAS VEGAS METROPOLITAN POLICE DETECTIVE P. FIELDING WHO CONFIRMED THAT TONYA M. TREVARTHEN OWNED SEVERAL PRIVATE BANK ACCOUNTS AND WITHDREW LARGE SUMS THAT THERE IS NO NEXUS TO ROBERT HOLMES III, AND THE WITHDRAWAL OF LARGE SUMS OF FUNDS FROM TONYA M. TREVARTHEN BANK ACCOUNTS, OUTSIDE OF THE ALLEGED CONFESSION MADE BY CO-DEFENDANT TONYA M. TREVARTHEN THAT SHE GAVE DEFENDANT ROBERT HOLMES III, \$ 145,000.00 THIS CONFESSION WAS UNTRUE WITHOUT THE PRESENCE OR ADVICE OF COUNSEL.

ROBERT HOLMES III, DID NOT OWN SEVERAL BANK ACCOUNTS NOR HAVE ROBERT HOLMES III, DEPOSITED ANY LARGE SUMS OF FUNDS INTO ANY PRIVATE BANK ACCOUNT. ANY TIME DURING THIS ALLEGED TUGGAL ACTIVITY. ON 11-22-06 A SEARCH WARRANT WAS SERVED UPON TONYA M. TREVARTHEN BANK ACCOUNT AND THERE WAS ON \$ 26,938.64 NO EVIDENCE WAS SHOWN THAT WOULD SUPPORT TONYA M. TREVARTHEN EVER OWED \$ 166,938.64

THE DEFENDANT ROBERT HOLMES III, DECLARE THAT HE NEVER RECEIVED ANY FUNDS FROM TONYA M TREVARTHEN, DAWMON MONROE, OR BRIAN FERGASON, DEFENDANT ROBERT HOLMES III, NEVER RECEIVED ANY UNITED STATES CURRENCY FROM TONY M TREVARTHEN DIRECTLY OR INDIRECTLY AND NO TUGGAL ACTIVITY IN WHICH ROBERT HOLMES III TOOK PART OR RESULTED IN THE EXCHANGE OF ANY UNITED STATES CURRENCY OF ANY AMOUNT.

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed).

THE PLAINTIFF DID NOT HAVE ANY STANDINGS TO BRING THIS FORFEITURE COMPLAINT AGAINST THE SUM OF \$170,000.00 PURSUANT TO N.R.S. 179.1164, FOR THAT SUM OF \$170,000.00 WAS NOT PROPERLY SUBJECT TO SEIZURE AND FORFEITURE, FOR THE PROPERTY OF ROBERT HOLMES III WAS NOT PROCEEDS ATTRIBUTABLE TO THE COMMISSION OR ATTEMPTED COMMISSION OF A FELONY PURSUANT TO N.R.S. 179.1161 ET SEQ FOR THIS PERSONAL PROPERTY OF ROBERT HOLMES III THE SUM OF \$170,000.00 DID NOT DERIVE DIRECTLY OR INDIRECTLY FROM THE COMMISSION OR ATTEMPTED COMMISSION OF A CRIME FOR THE PERSONAL PROPERTY OF ROBERT HOLMES III WAS PROVIDED TO I.C.E. AGENTS TO PREVENT A FURTHER INVESTIGATION AND CHARGES INTO MONEY LAUNDRY AND WAS IN FACT DERIVE FROM FAMILY, FRIENDS, AND LOANS FROM FINANCIAL INSTITUTIONS THEREFORE THE ESSENTIAL KEY ELEMENT OF N.R.S. 179.1161 ET. SEQ THAT THE CLAIMED FORFEITED UNITED STATES CURRENCY, \$170,000.00 BE PROCEEDS THAT MUST BE ATTRIBUTABLE TO THE COMMISSION OR ATTEMPTED COMMISSION OF A FELONY, THE \$170,000.00 WAS FUNDS BORROWED TO PREVENT A FUTURE CRIMINAL INVESTIGATION NOT FUNDS SEIZED BY A SEARCH WARRANT AS THE

DISTRICT COURT JUDGE INDICATED IN DECIDING TO GRANT THE PLAINTIFF AHERZ SUMMARY JUDGMENT IN DIRECT VIOLATION OF THE LAW., FOR WITHOUT ESTABLISHING STANDING TO THE SUM OF \$1 70,000.00 THE DISTRICT COURT IS WITHOUT PERSONAL JUDICIAL JURISDICTION VOTING ANY ORDER OF THE COURT FOR PER SE ABUSE OF DISCRETION HAS OCCURED (SEE KOON V. UNITED STATES, 116 S. CT 2035 (1996))

THE PROPER PERSON DEFENDANT ROBERT HOLMES III, PERSONAL PROPERTY OF \$1 70,000.00 WAS NOT ABANDON WHEN THE FUNDS WERE PLACE IN THE HANDS OF HIS Hired COUNSEL SEAN SULLIVAN ESQ, FOR ALL TIMES THEREIN AND THEREFORE SEAN SULLIVAN ESQ WAS ACTING AS A AGENT OF ROBERT HOLMES III, AS A MATTER OF LAW.

THE SUM OF \$1 70,000.00 WAS A PART OF A CONTRACT IN WHICH THE DEFENDANT ROBERT HOLMES III, HAD A PERIOD OF THREE MONTHS TO COMPLETE THE TERMS OF THE CONTRACT WHICH WAS MADE BY I.C.E. AGENTS S. SAMPULO, AND B. FULMER. THE SUM OF \$1 70,000.00, DID NOT DERIVE FROM THE COMMISSION OR ATTEMPTED COMMISSION OF A FELONY.

ROBERT HOLMES III, DID NOT COMPLETE THE TERMS OF THE CONTRACT THEREFORE THE SUM OF \$1 70,000.00 MUST BE RETURNED TO THE DEFENDANT ROBERT HOLMES III FORTHWITH FOR THE PERSONAL PROPERTY OF THE SUM OF \$1 70,000.00 WAS NEVER THE PROCEEDS OF THE COMMISSION OR ATTEMPTED COMMISSION OF A FELONY.

THE DISTRICT COURT JUDGE ABUSED HIS DISCRETION WHEN HE ALLOWED THE PLAINTIFF TO MISLEAD THE COURT BY CLAIMING THAT THE \$1 70,000.00 WAS SETTED THROUGH THE PROCESS OF A LAWFUL SEARCH WARRANT ISSUED UPON THE PROPERTY OF

ROBERT HOLMES III,

AT NO TIME WAS ANY UNITED STATES CURRENCY SEIZED FROM THE DEFENDANT ROBERT HOLMES III, THROUGH ANY LAWFUL SEARCH WARRANT SERVED UPON THE PRIVATE PROPERTY OF ROBERT HOLMES III.

THE ABUSE OF DISCRETION OCCURRED WHEN THE DISTRICT COURT GRANTED THE PLAINTIFF'S SUMMARY JUDGMENT IN FULL FOR THE PLAINTIFF ONLY HAD A LAWFUL CLAIM TO THE SUM OF \$1 211,656.73 PURSUANT TO N.R.S. 179.1161 ET, SEQ

ROBERT HOLMES III, DEMANDS AGAIN FOR THE RETURN OF HIS PERSONAL PROPERTY OF THE SUM OF \$1 70,000.00 FOR THE PLAINTIFF NOW VIOLATES THE CONVERSION RULE (SEE: CATANCA V. GARAGE, 542 SW 2d 239) PLUS

INTEREST IN THE AMOUNT OF 18% COMPOUNDED DAILY FOR THE PLAINTIFF KNEW THAT SAID FUNDS DID NOT DERIVE FROM THE COMMISSION OR ATTEMPTED COMMISSION OF A FELONY THEREFORE IS NOT SUBJECT TO A FORFEITURE COMPLAINT.

THE PLAINTIFF ATTEMPTED TO BRING FRAUD UPON THE COURT BY CLAIMING STAKINGS TO THE DEFENDANT ROBERT HOLMES PERSONAL PROPERTY OF \$1 70,000.00. WHICH AT NO TIME WAS SEIZED BY OR THROUGH A LAWFUL SEARCH WARRANT, A SUBPOENA, OR A COURT ORDER. THE FUNDS WERE TURNED OVER TO THE FEDERAL T.C.E. AGENCY, TO CREATE A LAWFUL CONTRACT THEREFORE THE FUNDS ARE NOT SUBJECT TO A FORFEITURE COMPLAINT AS A MATTER OF LAW WHEREFORE THIS COURT MUST VOID THE SUMMARY JUDGMENT AS IT RELATES TO A PORTION OF THE \$1 281,656.73 RETURNING A SUM OF \$1 70,000.00 BACK TO THE DEFENDANT ROBERT HOLMES III FORTHWITH.

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed appeal statement upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail):

THOMAS J. MOREO
200 LEWIS AVE
LAS VEGAS, NEVADA 89155

DATED this 26 day of DECEMBER, 2012.


Signature of Appellant

ROBERT HOLMES III
Print Name of Appellant

POST OFFICE BOX 208
Address

INDIAN SPRINGS NEVADA 89070
City/State/Zip

1034184
~~Telephone~~