

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 18, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

March 18, 2014**8:15 AM****Motion**

**Deft.'s Motion for
Judicial Notice - The
State's Failure to File
and Serve Response
in Opposition**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Charles Thoman, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

This is the time set for hearing on Deft.'s Motion for Judicial Notice - the State's Failure to File and Serve Response in Opposition. The Court noted that the Deft. is incorrect, the State did file an opposition to his previous motion. The Opposition was filed on February 24, 2014, and the hearing was held on February 27, 2014. Therefore, COURT ORDERED, Deft.'s Motion is DENIED as MOOT.

State to prepare the Order; COURT FURTHER ORDERED, matter set for Status Check. If the Order is submitted prior to the status check date, it will be VACATED.

NDC

04/03/14 8:15 AM STATUS CHECK: ORDER (03/18/14)

CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, High Desert State

PRINT DATE: 10/20/2015

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Minutes Date: January 06, 2009

08C250630

Prison, P.O. Box 650, Indian Springs, Nevada 89018.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 20, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

March 20, 2014**8:15 AM****Status Check****Order (02/27/14)****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Charles Thoman, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the time set for the Status Check regarding the Order from the February 27, 2014, hearing. Court noted that the Order was filed on March 11, 2014, and, therefore, ORDERED, matter OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 03, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

April 03, 2014**8:15 AM****Status Check****Order (03/18/14)****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Giancarlo Pesci, Chf Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the time set for the Status Check on the Order from March 18, 2014. Court noted the Order was filed on March 26, 2014, and, therefore, ORDERED, matter OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 14, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

August 14, 2014**8:15 AM****Motion for Relief**

**Deft.'s Motion for
Relief from Judgment
Based on Lack of
Jurisdiction for U.S.
Court of Appeals had
not Issued Any
Remand, Mandate, or
Remittitur**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Charles Thoman, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the time set for hearing on Deft.'s Motion for Relief from Judgment based on Lack of Jurisdiction for U.S. Court of Appeals had not Issued any Remand, Mandate, or Remittitur, which he filed pro se.

Court will hear no oral argument, it will base its decision on the pleadings submitted by the parties. The Deft. is alleging that his case was on appeal with the Federal Court when this Court went forward with his trial in District Court. Deft. had filed a Motion to Stay the State Court proceedings; however, said Motion was DENIED on May 9, 2012. The Deft. renewed said Motion and the Motion was again DENIED by the Federal Court on June 5, 2012. Since there was no STAY in place in the instant case, this Court proceeded with trial on June 11, 2012. Therefore, COURT ORDERED, Motion

08C250630

DENIED.

State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is filed prior to the next court date, the status check will be VACATED.

NDC

09/04/14 8:15 AM STATUS CHECK: Order (09/04/14)

CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 89419.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 04, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

September 04, 2014 8:15 AM**Status Check****Order (08/14/14)****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Hamner, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the time set for Status Check on the Order from the August 14, 2014, hearing. Court noted that the Order has been submitted for this Court's signature and ORDERED, matter OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 18, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

September 18, 2014 8:15 AM**Motion**

**Ex Parte Motion to
Chief Judge to
Reassign Case to
Jurist of Reason
Based on Pending
Suit 3:14- CV-00385-
RCJ-WGC Against
Judge Michael
Villani for
Proceeding in Clear "
Want of Jurisdiction"
Thereby Losing
Immunity,
Absolutely**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- - Christopher Hamner, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

This is the time set for hearing on Deft.'s Ex Parte Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit 3:14- EV-00385-RCJ-WGC Against Judge Michael Villani for Proceeding in Clear "Want of Jurisdiction" Thereby Losing Immunity, Absolutely. Court noted the Deft. alleged that he has filed a new lawsuit against this Judge as well as some other people in the courthouse. Therefore, COURT ORDERED, matter REFERRED to Judge Togliatti for review. Court

PRINT DATE: 10/20/2015

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Minutes Date: January 06, 2009

noted Deft. has another motion set for hearing on this Court's calendar for September 23, 2014; that motion will also be set on Judge Togliatti's calendar the same day as the instant motion.

NDC

10/03/14 9:00 EX-PARTE MOTION TO CHIEF JUDGE TO REASSIGN CASE/MOTION FOR LEAVE OF COURT TO FILE MOTION FOR REHEARING

CLERK S NOTE: A copy of this minute order was mailed to Brian O'Keefe, #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 894193.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 23, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

September 23, 2014 8:15 AM**Minute Order****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Defendant's Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit and Defendant's Motion For Leave of Court to File Motion For Rehearing came before this Court on the September 18, 2014, Oral Calendar. This Court referred the Motions to Judge Jennifer Togliatti, Chief Judge, for determination. Now, Defendant has filed a Petition for Writ of Habeas Corpus. Pursuant to NRS 1.235(5), this Department cannot proceed on the Defendant's Petition until Judge Togliatti has ruled on Defendant's Motion to Reassign. Therefore, COURT ORDERED, Defendant's Petition for Writ of Habeas Corpus and any other motions set in Department XVII shall be STAYED until Judge Togliatti makes a determination on Defendant's Motion to Reassign the case. A status check will be set on October 16, 2014.

10/16/14 8:15 AM STATUS CHECK: STAY

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of the District Attorney and mailed to Brian O'Keefe, #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 894193.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 03, 2014

08C250630

The State of Nevada vs Brian K O'Keefe

October 03, 2014

9:00 AM

Motion

HEARD BY: Togliatti, Jennifer

COURTROOM: RJC Courtroom 03E

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Matter taken OFF CALENDAR before Court.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****October 16, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

October 16, 2014**8:15 AM****Status Check****Stay****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Sandra Pruchnic**REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- Nicole Cannizzaro, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the set for the Status Check on the Stay. Court noted that the Deft. previously filed a Motion requesting that this Court be recused from his case. Chief Judge Togliatti reviewed this matter and DENIED the Deft.'s request. Therefore, this case will remain in Department XVII. COURT ORDERED, all Deft.'s pending motions shall be set for hearing on November 6, 2014.

NDC

11/06/14 8:15 AM ALL PENDING MOTIONS

CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe, #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 894193.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 06, 2014

08C250630

The State of Nevada vs Brian K O'Keefe

November 06, 2014 8:15 AM

All Pending Motions

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- AMENDED PETITION FOR WRIT OF HABEAS CORPUS . . . STATE'S RESPONSE AND MOTION TO DISMISS DEFT.'S PETITION FOR WRIT OF HABEAS CORPUS

Hilary Heap, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

Court noted that Deft. has filed various motions but this is the Deft.'s first habeas petition. It is this Court's policy to appoint counsel on all first petitions. Therefore, COURT ORDERED, counsel shall be appointed for the Deft. This Court's staff will contact the Office of Appointed Counsel. COURT FURTHER ORDERED, matter set for status check.

NDC

11/20/14 8:15 AM STATUS CHECK: CONFIRMATION OF COUNSEL

CLERK'S NOTE: Court Clerk telephonically contacted Drew Christensen regarding the above.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 20, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

November 20, 2014 8:15 AM**Status Check****Confirmation of
Counsel****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Hilary Heap, Dep DA, present on behalf of the State and Matthew Carling, Esq., present on behalf of Deft. O'Keefe, who is not present; he is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for the Status Check on Confirmation of Counsel. Mr. Carling advised that he could CONFIRM as counsel of record and requested thirty (30) days to obtain the file and review it. COURT ORDERED, matter set for status check.

NDC

01/08/15 8:15 AM STATUS CHECK: FILE/SET BRIEFING SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 08, 2015**

08C250630

The State of Nevada vs Brian K O'Keefe

January 08, 2015**8:15 AM****Status Check****File/Set Briefing
Schedule****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Caroline Bateman, Dep DA, present on behalf of the State and Alissa Engler, Esq., appearing on behalf of Matthew Carling, Esq., for Deft. O'Keefe, who is not present. Deft. is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for the Status Check on the file; a briefing schedule needs to be set.

Ms. Engler advised that Mr. Carling has received the file and is requesting ninety (90) days to file his supplemental petition. The Court set the following briefing schedule:

04/07/15 - Supplemental Petition

06/08/15 - State's Response

COURT ORDERED, matter set for hearing.

NDC

07/10/15 9:30 AM HEARING: PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 30, 2015**

08C250630

The State of Nevada vs Brian K O'Keefe

June 30, 2015**8:30 AM****Motion to Withdraw as
Counsel****Deft.'s Motion to
Withdraw Counsel
for Conflict and
Failure to Present
Claims ...****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Erika Wiborg, Dep DA, present on behalf of the State; neither Deft. O'Keefe nor his counsel, Matthew Carling, are present. Deft. is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for hearing on Deft.'s Motion to Withdraw Counsel for Conflict, which the Deft. filed pro se. The Court did not receive an unequivocal statement from the Deft. as to whether or not he wishes to represent himself in this matter. The Court, however, is not going to appoint another attorney just because the Deft. does not like Mr. Carling. Although Mr. Carling could not be present today, he filed an Affidavit on July 29, 2015, stating his position on Deft.'s Motion. In said Affidavit, Mr. Carling advised that he been working on this case and can work with the Deft. Therefore, COURT ORDERED, Deft.'s Motion is DENIED, without prejudice.

State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is submitted prior to status check date, it will be VACATED.

NDC

08C250630

07/30/15 8:30 AM STATUS CHECK: ORDER (06/30/15)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 10, 2015

08C250630

The State of Nevada vs Brian K O'Keefe

July 10, 2015

9:30 AM

All Pending Motions

HEARD BY: Hardcastle, Kathy

COURTROOM: RJC Courtroom 11A

COURT CLERK: Andrea Natali

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT:

Carling, Matthew D.

Attorney

State of Nevada

Plaintiff

Villani, Jacob J.

Attorney

JOURNAL ENTRIES

- DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)
DEFENDANT'S PRO PER MOTION FOR LEAVE TO FILE SUPPLEMENTAL PETITION
ADDRESSING ALL CLAIMS IN THE FIRST INSTANCE REQUIRED BY STATUTE FOR JUDICIAL
ECONOMY WITH AFFIDAVIT

Deft. not present. COURT ORDERED, motion for leave to file supplemental petition DENIED as a fugitive document; NOTED Deft. was represented by counsel. Mr. Carling noted in his pleading he didn't address the State's response regarding the time bar; additionally, as to Mr. Maningo, who was prior trial counsel, the State may need time to respond thereto. Mr. Carling provided a timeline for the Court's review. Colloquy regarding the date the remittitur was referenced as being filed and the date the petition was filed. Mr. Villani requested 30 days to respond. Mr. Carling requested 2 weeks to reply. COURT ORDERED, matter CONTINUED; State's supplement due 8/10/15 and Defense reply due 8/24/15.

NDC

CONTINUED TO: 9/4/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 16, 2015**

08C250630

The State of Nevada vs Brian K O'Keefe

July 16, 2015**8:30 AM****Motion****Deft.'s Ex-Parte
Motion to Extend
Prison Copywork
Limit****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Nicole Cannizzaro, Dep DA, present on behalf of the State; neither Deft. O'Keefe or his counsel, Matthew Carling, are present.

This is the time set for hearing on Deft.'s Ex-Parte Motion to Extend Prison Copywork Limit, which he filed pro se. Court noted that Mr. Carling is not able to be present today and has requested this matter be continued. COURT SO ORDERED.

NDC

CONTINUED TO: 07/30/15 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 30, 2015**

08C250630

The State of Nevada vs Brian K O'Keefe

July 30, 2015**8:30 AM****Motion****Deft.'s Motion to
Extend Prison
Copywork Limit****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Nicole Cannizzaro, Dep DA, present on behalf of the State and Alissa Engler, Esq., appearing on behalf of Matthew Carling, Esq., for Deft. O'Keefe, who is not present; he is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for hearing on Deft.'s Motion to Extend Prison Copywork Limit. Court noted that the Deft. is represented by Mr. Carling; Ms. Engler advised that Mr. Carling has no representations to make; he did not receive a copy of Deft.'s ex-parte motion.

Court represented that since the Deft. is dealing with the prison system, there are rules and regulations he must follow. This is an issue for the Attorney General's office; therefore, his motion should have been sent to them. Additionally, Deft. has counsel. Therefore, COURT ORDERED, Motion DENIED, without prejudice. If Mr. Carling believes the Motion has merit, he can refile it with the Court.

State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is filed prior to the status check date, it will be VACATED.

NDC

08C250630

08/27/15 8:30 AM STATUS CHECK: ORDER (07/30/15)

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****September 04, 2015**

08C250630

The State of Nevada vs Brian K O'Keefe

September 04, 2015 9:30 AM**Hearing****Deft.'s Petition for
Writ of Habeas
Corpus (Post-
Conviction)****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- Christopher Lalli, Asst DA, present on behalf of the State and Matthew Carling, Esq., present on behalf of Deft. O'Keefe, who is not present. Deft. is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for hearing on Deft.'s Petition for Writ of Habeas Corpus (Post-Conviction). Court noted there is a disagreement as to when the Remittitur issued; the Defense claims it was issued on June 24, 2014, and the State claims it was issued on July 23, 2013. The Court pulled the Remittitur and it is dated July 23, 2013, and was issued on July 26, 2013; Supreme Court No. 61631.

Mr. Carling advised that the Deft. moved to STAY the Remittitur in this case. With regard to the appeal, Deft. had Appellate counsel and he was trying to fire him but could not so he tried to do things on his own while he still had counsel of record but his requests were denied by the Supreme Court. Therefore, if the Court finds that Deft.'s Petition was not timely filed, Mr. Carling believes there is good cause. Additionally, Mr. Carling represented that the State's Response was just on the time-bar issue, it did not address any of the merits so Mr. Carling filed a Reply specifically addressing that. This matter has been well briefed, so Mr. Carling will submit the matter.

The Court adopts the procedural history set forth by the State. The Notice of Remittitur was issued in July 2013 and Deft.'s Petition was filed in September 2014; therefore, COURT FINDS, the Deft. is time bared, pursuant to NRS 34.726, and good cause has not been shown. COURT ORDERED, Deft.'s Petition for Writ of Habeas Corpus is DENIED. Additionally, Deft.'s request for an Evidentiary Hearing is also DENIED because there is a jurisdictional bar on this particular matter.

Mr. Lalli to prepare the appropriate Order approved as to form and content by Mr. Carling.

NDC

2009

State's Exhibit List

CASE # C250630

		OFFERED		ADMITTED	
		DATE	OBJ	DATE	
1.	Large Diagram of Apartment	3/17	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/17
2.	CD - 911 call Todd	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
3.	CD - 911 call Robin	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
4.	Photo of ID of victim		<input checked="" type="checkbox"/> STIP	<input checked="" type="checkbox"/>	3/16
5.	Declaration of Research Assistant				
6.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
7.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
8.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
9.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
10.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
11.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
12.	Photo				
13.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
14.	Photo				
15.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
16.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
17.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
18.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
19.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
20.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
21.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
22.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
23.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
24.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
25.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
26.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
27.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
28.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
29.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16
30.	Photo	3/16	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/>	3/16

31. 6	Photo	3/18	X	NO	X	3/18
32. 6	Photo	3/18	X	NO	X	3/18
33. 6	Photo	3/18	X	NO	X	3/18
34. 6	Photo	3/18	X	NO	X	3/18
35. 6	Photo	3/18	X	NO	X	3/18
36. 0	Photo	3/18	X	NO	X	3/18
37. 6	Photo	3/18	X	NO	X	3/18
38. 6	Photo	3/18	X	NO	X	3/18
39. 0	Photo	3/18	X	NO	X	3/18
40. 6	Photo	3/18	X	NO	X	3/18
41. 6	Photo	3/18	X	NO	X	3/18
42. 6	Photo	3/18	X	NO	X	3/18
43. 6	Photo	3/18	X	NO	X	3/18
44. 6	Photo	3/18	X	NO	X	3/18
45. 6	Photo	3/18	X	NO	X	3/18
46. 6	Photo	3/18	X	NO	X	3/18
47. 0	Photo	3/18	X	NO	X	3/18
48. 0	Photo	3/18	X	NO	X	3/18
49. 6	Photo	3/18	X	NO	X	3/18
50. 6	Photo	3/18	X	NO	X	3/18
51. 0	Photo	3/18	X	NO	X	3/18
52. 0	Photo	3/18	X	NO	X	3/18
53. 0	Photo	3/18	X	NO	X	3/18
54. 6	Photo	3/18	X	NO	X	3/18
55. 6	Photo	3/18	X	NO	X	3/18
56. 0	Photo	3/18	X	NO	X	3/18
57. 0	Photo	3/18	X	NO	X	3/18
58. 0	Photo	3/18	X	NO	X	3/18
59. 0	Photo	3/18	X	NO	X	3/18
60. 0	Photo	3/18	X	NO	X	3/18
61. 0	Photo	3/18	X	NO	X	3/18
62. 0	Photo	3/18	X	NO	X	3/18
63. 0	Photo	3/18	X	NO	X	3/18

[illegible]

2009

Deft's Exhibit List

CASE # C250630

			OFFERED		ADMITTED	
			DATE	OBJ	DATE	
A. <input type="radio"/>	Mines & Associates				STIP	3/19
B. <input type="radio"/>	Medical Records - Victoria Whitmarsh					
C. <input type="radio"/>	Las Vegas Fire and Rescue Records					
D. <input type="radio"/>	AMR Records					
E. <input type="radio"/>	Military Records - O'Keefe					
F.	CCDC Visitation Records - Cheryl Morris (NOT PROVIDED)					
G. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
H. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
I. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
J. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
K. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
L. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
M. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
N. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
O. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
P. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
Q. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
R. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
S. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
T. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
U. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
V. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
W. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
X. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
Y. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
Z. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
AA. <input type="radio"/>	Photo	3/16	X	NO	X	3/16
BB. <input type="radio"/>	Photo	3/19	X	NO	X	3/19
CC. <input type="radio"/>	Photo	3/19	X	NO	X	3/19
DD. <input type="radio"/>	Photo	3/19	X	NO	X	3/19

EE. <input type="checkbox"/>	Photo	3/19	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/19
FF. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
GG. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
HH. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
II. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
JJ. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
KK. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
LL. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
MM. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
NN. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
OO. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
PP. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
QQ. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
RR. <input type="checkbox"/>	Photo	3/17	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/17
SS. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
TT. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
UU. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
VV. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
WW. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
XX. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
YY. <input type="checkbox"/>	Copy of Receipt and Note with Names and Phone Numbers					
ZZ. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
AAA. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
BBB. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
CCC. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
DDD. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
EEE. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
FFF. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
GGG. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
HHH. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
III. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
JJJ. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16
KKK. <input type="checkbox"/>	Photo	3/16	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/>	3/16

[illegible]

CASE # C222052

		OFFERED	ADMITTED	
		DATE	OBJ	DATE
1. o	Question from Juror #3			3/16
2. o	Question from Juror #10			3/16
3. o	Question from Juror #7			3/17
4. o	Question from Juror #4			3/17
5. o	Question from Juror #6			3/17
6. o	Question from Juror #3			3/17
7. o	Question from Juror #7			3/17
8. o	Question from Juror #6			3/17
9. o	Email			3/18
10. o	Emails			3/18
11. o	Copy of note			3/18
12. o	Question from Juror #10			3/18
13. o	Question from Juror #7			3/19
14. o	Question from Juror #7			3/19
15. o	Question from Juror #7			3/19
16. o	Instruction not given			3/19
17. o	Instruction not given			3/19
18. o	Instruction not given			3/19
19. o	Question from Juror #7			3/19
20. o	Question from Juror #7			3/19
21. o	Question from Juror #7			3/19
22. o	Question from Juror #7			3/19
23. o	Question from Juror #7			3/19
24. o	Question from Juror #7			3/20
25. o	Question from Juror #10			3/20
25a. o	Question from Juror #10			3/20
26. o	Question from Juror #3			3/20
27. o	Question and answer from Jurors during deliberation			3/20

	DATE	OFFERED	OBJ	DATE	ADMITTED
1. Diagram of Apartment	8/26	✓	no	8/26	✓
2. Photograph	8/26	✓	no	8/26	✓
3. Photograph	8/26	✓	no	8/26	✓
4. Photograph		✓			✓
5. Photograph		✓			✓
6. Photograph		✓			✓
7. Photograph	8/26	✓	no	8/26	✓
8. Photograph	8/27	✓	no	8/27	✓
9. Photograph	8/27	✓	no	8/27	✓
10. Photograph	8/27	✓	no	8/27	✓
11. Photograph		✓			✓
12. Photograph		✓			✓
13. Photograph		✓			✓
14. Photograph		✓			✓
15. Photograph		✓			✓
16. Photograph		✓			✓
17. Photograph		✓			✓
18. Photograph		✓			✓
19. Photograph		✓			✓
20. Photograph		✓			✓
21. Photograph	8/27	✓	no	8/27	✓
22. Photograph	8/26	✓	no	8/26	✓
23. Photograph	8/27	✓	no	8/27	✓
24. Photograph	8/27	✓	no	8/27	✓
25. Photograph	8/27	✓	no	8/27	✓
26. Photograph		✓			✓
27. Photograph	8/27	✓	no	8/27	✓

	DATE	OFFERED	OBJ	DATE	ADMITTED
28. Photograph	8/27	✓	no	8/27	✓
29. Photograph		✓			✓
30. Photograph		✓			✓
31. Photograph		✓			✓
32. Photograph		✓			✓
33. Photograph		✓			✓
34. Photograph		✓			✓
35. Photograph		✓			✓
36. Photograph		✓			✓
37. Photograph		✓			✓
38. Photograph		✓			✓
39. Photograph		✓			✓
40. Photograph		✓			✓
41. Photograph		✓			✓
42. Photograph		✓			✓
43. Photograph		✓			✓
44. Photograph		✓			✓
45. Photograph		✓			✓
46. Photograph		✓			✓
47. Photograph		✓			✓
48. Photograph		✓			✓
49. Photograph		✓			✓
50. Photograph		✓			✓
51. Photograph		✓			✓
52. Photograph		✓			✓
53. Photograph		✓			✓
54. Photograph		✓			✓
55. Photograph	8/27	✓	no	8/27	✓

	DATE	OFFERED	OBJ	DATE	ADMITTED
56. Photograph	8/27	✓	no	8/27	✓
57. Photograph	8/27	✓	no	8/27	✓
58. Photograph	8/30	✓	no	8/30	✓
59. Photograph	8/30	✓	no	8/30	✓
60. Photograph	8/27	✓	no	8/27	✓
61. Photograph	8/20	✓	no	8/20	✓
62. Photograph	8/30	✓	no	8/30	✓
63. Photograph		✓			✓
64. Photograph		✓			✓
65. Photograph		✓			✓
66. Photograph		✓			✓
67. Photograph		✓			✓
68. Photograph		✓			✓
69. Photograph		✓			✓
70. Photograph		✓			✓
71. Photograph		✓			✓
72. Photograph		✓			✓
73. Photograph		✓			✓
74. Photograph		✓			✓
75. Photograph		✓			✓
76. Photograph	8/30	✓	no	8/30	✓
77. Photograph	8/30	✓	no	8/30	✓
78. Photograph		✓			✓
79. Photograph		✓			✓
80. Photograph	8/30	✓	no	8/30	✓
81. Photograph	8/25	✓	no	8/25	✓
82. Photograph		✓			✓
83. Photograph	8/25	✓	no	8/25	✓

	DATE	OFFERED	OBJ	DATE	ADMITTED
84. Photograph	8/25	✓	no	8/25	✓
85. Photograph		✓			✓
86. Photograph		✓			✓
87. Photograph		✓			✓
88. Photograph		✓			✓
89. Photograph		✓			✓
90. Photograph		✓			✓
91. Photograph		✓			✓
92. Photograph		✓			✓
93. Photograph		✓			✓
94. Photograph		✓			✓
95. Photograph		✓			✓
96. Photograph		✓			✓
97. Photograph		✓			✓
98. Photograph		✓			✓
99. Photograph		✓			✓
100. Photograph		✓			✓
101. Photograph		✓			✓
102. Photograph		✓			✓
103. Photograph		✓			✓
104. Photograph		✓			✓
105. Photograph		✓			✓
106. Photograph		✓			✓
107. Photograph		✓			✓
108. Photograph		✓			✓
109. Photograph		✓			✓
110. Photograph		✓			✓
111. Photograph	8/25	✓	no	8/25	✓

	DATE	OFFERED	OBJ	DATE	ADMITTED
112. Photograph	8/25	✓	no	8/25	✓
113. Photograph		✓			✓
114. Photograph		✓			✓
115. Photograph		✓			✓
116. Photograph		✓			✓
117. Photograph		✓			✓
118. Evidence Bag		✓			✓
119. Photograph		✓			✓
120. Photograph	8/25	✓	no	8/25	✓
121. Photocopy of Knife	8/30	✓	no	8/30	✓
121. Photocopy of Knife	8/30	✓	no	8/30	✓
123. Photocopy of Clothes	8/30	✓	no	8/30	✓
124. Evidence Bag	8/30	✓	no	8/30	✓
124-A. Bag not opened					
125. Evidence Bag	8/30	✓	no	8/30	✓
125-A. Bag not opened					
125-B. " "					
126. Evidence Bag	8/27	✓	no	8/27	✓
126-A. Bag not opened					
127. Evidence Bag	8/30	✓	no	8/30	✓
127-A. Bag not opened					
127-B. " "					
128. Evidence Box	8/30	✓	no	8/30	✓
128-A Knife	8/30	✓	no	8/30	✓
129. 911 Call Disc	8/26	✓	no	8/26	✓
130. Photograph	8/25	✓	no	8/25	✓
131. Photograph.	8/30	✓	no	8/30	✓
132. Photograph	8/30	✓	no	8/30	✓

EXHIBITS

C250630

[illegible]

	DATE	OFFERED	OBJ	DATE	ADMITTED
A. Autopsy Diagram	8/25	✓	no	8/25	✓
B. Photograph	8/30	✓	no	8/30	✓
C. Photograph	8/25	✓	no	8/25	✓
D. Photograph		✓			✓
E. Photograph		✓			✓
F. Photograph		✓			✓
G. Photograph		✓			✓
H. Photograph		✓			✓
I. Photograph		✓			✓
J. Photograph	8/25	✓	no	8/25	✓
K. Records (Bank)	8/31	✓	no	8/31	✓
L. LVMPD Subpoena	8/30	✓	no	8/30	✓
M. Records from DETR					
N. Disc of Interview (withdrawn)					
O. Photograph	8/20	✓	no	8/20	✓
P. "		✓			✓
Q. "		✓			✓
R. "		✓			✓
S. "		✓			✓
T. "		✓			✓
U. "		✓			✓
V. "		✓			✓
W. "		✓			✓
X Photograph	8/20	✓	no	8/20	✓
Y. "	8/30	✓	no	8/30	✓
Z. "	8/30	✓	no	8/30	✓
AA. Photograph	8/30	✓	no	8/30	✓

	DATE	OFFERED	OBJ	DATE	ADMITTED
BB. Photograph	8/30	✓	no	8/30	✓
CC. " "	8/30	✓	no	8/30	✓
DD. " "	8/30	✓	no	8/30	✓
EE. " "	8/30	✓	no	8/30	✓
FF. " "	8/30	✓	no	8/30	✓
GG. " "	8/30	✓	no	8/30	✓
HH. " "	8/27	✓	no	8/27	✓
II. " "	8/27	✓	no	8/27	✓
JJ. Photograph	8/27	✓	no	8/27	✓
KK. Photograph	8/27	✓	no	8/27	✓
LL. Photograph	8/27	✓	no	8/27	✓
MM. Photograph	8/30	✓	no	8/30	✓
NW. " "	8/30	✓	no	8/30	✓
OO. " "		✓			✓
PP. " "		✓			✓
QQ. " "		✓			✓
RR. " "		✓			✓
SS. " "		✓			✓
TT. " "		✓			✓
UU. " "		✓			✓
VV. " "		✓			✓
WW. " "		✓			✓
XX. " "		✓			✓
YY. Photograph	8/30	✓	no	8/30	✓
ZZ. Xerox Copy of Emergency nos.	8/30	✓	no	8/30	✓
AAA Photograph	8/30	✓	no	8/30	✓
BBB Photograph	8/30	✓	no	8/30	✓

	DATE	OFFERED	OBJ	DATE	ADMITTED
CCC Photograph	8/30	✓	no	8/30	✓
DDD "		✓			✓
EEE "		✓			✓
FFF "		✓			✓
GGG "		✓			✓
HHH "		✓			✓
III "		✓			✓
JJJ "		✓			✓
KKK "	8/30	✓	no	8/30	✓
LLL "		✓			✓
MMM "		✓			✓
NNN "		✓			✓
OOO "		✓			✓
PPP "		✓			✓
QQQ "		✓			✓
RRR "		✓			✓
SSS "		✓			✓
TTT "		✓			✓
UUU "		✓			✓
VVV "		✓			✓
WWW "		✓			✓
XXX "	8/30	✓	no	8/30	✓
YYY "	8/30	✓	no	8/30	✓
ZZZ "	8/30	✓	no	8/30	✓
AAAA "	8/30	✓	no	8/30	✓
BBBB "		✓			✓
CCCC Photograph	8/30	✓	no	8/30	✓

		DATE	OFFERED	OBJ	DATE	ADMITTED
DDDD	Photograph	8/30	✓	no	8/30	✓
EEEE	"		✓			✓
FFFF	"		✓			✓
GGGG	"		✓			✓
HHHH	"		✓			✓
IIIE	"	8/30	✓	no	8/30	✓
JJJJ	"					
KKKK	"	8/30	✓	no	8/30	✓
LLLL	"					
MMMM	"	8/30	✓	no	8/30	✓
NNNN	"		✓			✓
OOOO	"		✓			✓
PPPP	"		✓			✓
QQQQ	"	8/30	✓	no	8/30	✓
RRRR	"					
SSSS	"	8/30	✓	no	8/30	✓
TTTT	"					
UUUU	"	8/30	✓	no	8/30	✓
VVVV	"		✓			✓
WWWW	"	8/30	✓	no	8/30	✓
XXXX	"	8/31	✓	no	8/31	✓
YYYY	"	8/31	✓	no	8/31	✓
2222	Photograph	8/31	✓	no	8/31	✓
AAAAA	Photograph	8/31	✓	no	8/31	✓
BBBBB	Naph Cone					
CCCCC	Mms & Associates	8/31	✓	no	8/31	✓
DDDDD	Military Records	8/31	✓	no	8/31	✓

[illegible]

Court's

EXHIBITS

CASE NO.

C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
1. Excerpts from Medical Records				AUG 23	2010
2. Question from Juror # 8				AUG 26	2010
3. Question from Juror # 2				AUG 26	2010
4. Question from Juror # 7				AUG 26	2010
5. Question from Juror # 4				AUG 27	2010
6. Question from Juror # 3				AUG 27	2010
7. Question from Juror # 4				AUG 27	2010
8. Question from Juror # 7				AUG 30	2010
9. Question from Juror # 7				AUG 30	2010
10. Question from Juror # 6				AUG 30	2010
11. Question from Juror # 13				AUG 30	2010
12. Question from Juror # 8				AUG 30	2010
13. Question from Juror # 13				AUG 30	2010
14. Stipulation as to medical Records.				AUG 30	2010
15. Disc of Interview				AUG 30	2010
16. Question from Jury				SEP 01	2010
17. Note from Jury				SEP 01	2010
18. Note from Jury				SEP 02	2010
19. Note from Juror # 5				SEP 02	2010
20. Note from Jury				SEP 02	2010
21. Note from Juror # 5				SEP 02	2010
22. Interrogation of Def.				SEP 02	2010
23. Powerpoint Presentation by DA				SEP 02	2010

[illegible]

	DATE	OFFERED	OBJ	DATE	ADMITTED
1. Diagram of Apartment	6/12	✓	no	6/12	✓
2. Photograph	6/12	✓	no	6/12	✓
3. Photograph	6/12	✓	no	6/12	✓
4. Photograph		✓			✓
5. Photograph		✓			✓
6. Photograph	6/12	✓	no	6/12	✓
7. Photograph	6/13	✓	no	6/13	✓
8. Photograph	6/13	✓	no	6/13	✓
9. Photograph	6/12	✓	no	6/12	✓
10. Photograph	6/13	✓	no	6/13	✓
11. Photograph		✓			✓
12. Photograph		✓			✓
13. Photograph		✓			✓
14. Photograph		✓			✓
15. Photograph		✓			✓
16. Photograph		✓			✓
17. Photograph		✓			✓
18. Photograph		✓			✓
19. Photograph		✓			✓
20. Photograph		✓			✓
21. Photograph	6/13	✓	no	6/13	✓
22. Photograph	6/12	✓	no	6/12	✓
23. Photograph	6/12	✓	no	6/12	✓
24. Photograph	6/13	✓	no	6/13	✓
25. Photograph		✓			✓
26. Photograph		✓			✓
27. Photograph		✓			✓
28. Photograph	6/13	✓	no	6/13	✓

	DATE	OFFERED	OBJ	DATE	ADMITTED
* 29. Photograph	6/13	✓	no	6/13	✓
30. Photograph		✓			✓
31. Photograph		✓			✓
32. Photograph		✓			✓
33. Photograph		✓			✓
34. Photograph		✓			✓
35. Photograph		✓			✓
36. Photograph		✓			✓
* 37. Photograph		✓			✓
* 38. Photograph		✓			✓
39. Photograph		✓			✓
40. Photograph		✓			✓
41. Photograph		✓			✓
42. Photograph		✓			✓
* 43. Photograph		✓			✓
44. Photograph		✓			✓
45. Photograph		✓			✓
46. Photograph		✓			✓
* 47. Photograph		✓			✓
48. Photograph		✓			✓
49. Photograph		✓			✓
50. Photograph		✓			✓
51. Photograph		✓			✓
52. Photograph		✓			✓
53. Photograph		✓			✓
54. Photograph		✓			✓
55. Photograph		✓			✓
56. Photograph	6/13	✓	no	6/13	✓

	DATE	OFFERED	OBJ	DATE	ADMITTED
57. Photograph	6/13	✓	no	6/13	✓
58. Photograph	6/13	✓	no	6/13	✓
59. Photograph					
60. Photograph	6/13	✓	no	6/13	✓
61. Photograph		✓			✓
62. Photograph		✓			✓
63. Photograph	6/13	✓	no	6/13	✓
64. Photograph	6/13	✓	no	6/13	✓
65. Photograph	6/13	✓	no	6/13	✓
66. Photograph		✓			✓
67. Photograph		✓			✓
68. Photograph		✓			✓
69. Photograph		✓			✓
70. Photograph		✓			✓
71. Photograph		✓			✓
72. Photograph		✓			✓
73. Photograph		✓			✓
74. Photograph		✓			✓
75. Photograph		✓			✓
76. Photograph	6/13	✓	no	6/13	✓
77. Photograph	6/13	✓	no	6/13	✓
78. Photograph		✓			✓
79. Photograph		✓			✓
80. Photograph	6/13	✓	no	6/13	✓
81. Photograph	6/13	✓	no	6/13	✓
82. Photograph		✓			✓
83. Photograph		✓			✓
84. Photograph	6/13	✓	no	6/13	✓

	DATE	OFFERED	OBJ	DATE	ADMITTED
85. Photograph	6/13	✓	no	6/13	✓
86. Photograph		✓			✓
87. Photograph		✓			✓
88. Photograph		✓			✓
89. Photograph		✓			✓
90. Photograph		✓			✓
91. Photograph		✓			✓
92. Photograph		✓			✓
93. Photograph		✓			✓
94. Photograph		✓			✓
95. Photograph		✓			✓
96. Photograph		✓			✓
97. Photograph		✓			✓
98. Photograph		✓			✓
99. Photograph		✓			✓
100. Photograph		✓			✓
101. Photograph		✓			✓
102. Photograph		✓			✓
103. Photograph		✓			✓
104. Photograph		✓			✓
105. Photograph		✓			✓
106. Photograph		✓			✓
107. Photograph		✓			✓
108. Photorgraph		✓			✓
109. Photograph		✓			✓
110. Photograph		✓			✓
111. Photograph		✓			✓
112. Photograph	6/13	✓	no	6/13	✓

	DATE	OFFERED	OBJ	DATE	ADMITTED
113. Photograph	6/13	✓	no	6/13	✓
114. Photograph		✓			✓
115. Photograph		✓			✓
116. Photograph		✓			✓
117. Photograph		✓			✓
118. Photograph		✓			✓
119. Photograph		✓			✓
120. Photograph	6/13	✓	no	6/13	✓
121. Photograph of Knife	6/13	✓	no	6/13	✓
122. Photograph of Knife	6/13	✓	no	6/13	✓
123. Photograph of Clothes	6/13	✓	no	6/13	✓
124. Evidence Bag	6/13	✓	no	6/13	✓
124-A. Contents (Not opened)					
125. Evidence Bag	6/13	✓	no	6/13	✓
125-A. Contents (Not opened)					
125-B. Contents (Not opened)					
126. Evidence Bag	6/13	✓	no	6/13	✓
126-A. Contents (Not opened)					
127. Evidence Bag	6/13	✓	no	6/13	✓
127-A. Contents (Not opened)					
127-B. Contents (Not opened)					
128. Evidence Box	6/13	✓	no	6/13	✓
128-A. Knife	6/13	✓	no	6/13	✓
129. 911 Call Disc					
130. Photograph	6/13	✓	no	6/13	✓
131. Photograph					
132. Photograph	6/13	✓	no	6/13	✓
133. Judgment of Conviction	6/12	✓	yes	6/12	✓

6

C250630

[illegible]

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

(NOTICE OF APPEAL PURSUANT NRAP 4(C)); CASE APPEAL
STATEMENT; DISTRICT COURT DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND
ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

BRIAN K. O'KEEFE,

Defendant(s).

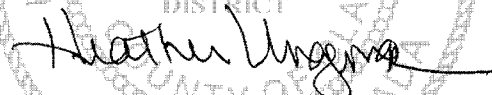
Case No: C250630

Dept No: XVII

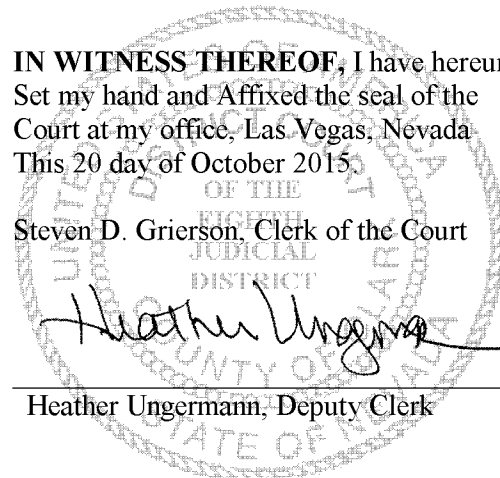
now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 20 day of October 2015.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk



FILED

OCT 07 2015

NOAS

Brian Kerry O'Keefe # 90244
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Tracie K. Lindeman
CLERK OF COURT

Petitioner In Pro Se

Electronically Filed
Oct 22 2015 10:24 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

BRIAN KERRY O'KEEFE

Petitioner,

Case No. 08-C250630

-vs-

Dept. No. XVII

THE STATE OF NEVADA,

Respondent.

(NOTICE OF APPEAL PURSUANT NRAP 4(c))

NOTICE IS GIVEN that Petitioner, Brian Kerry O'Keefe,
in pro se, hereby appeals to the Nevada Supreme Court the 1
Findings of Fact, Conclusions of Law and Order Denying /
Dismissing Petition for Writ of Habeas Corpus, ² as filed/entered
on or about the 4th day of September, 2015, in the above-
entitled Court.

Dated this 2nd day of October, 2015.

(logged 10-2-2015
Buss Slip No. 1961879)

Brian K. O'Keefe
Brian K. O'Keefe # 90244
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

RECEIVED

OCT 07 2015

RECEIVED
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

OCT 20 2015

CLERK OF THE COURT

NRAP 4(e)
NRAP 4(b)(2)
NRAP 4(b)(5)(B) (... Judge shall enter judgment
within 20 days...)

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the below address(es) on this 2nd day of October, 2015, by placing same in the U.S. Mail via prison law library staff: Brass Slip No. 1961879

~~STEVEN GRIERSON, Clerk of Court
200 LEWIS AVENUE, 3RD FLOOR
Las Vegas, NV. 89155-1160~~

(logged
10-2-2015)

Supreme Court of Nevada
Office of the Clerk
201 S. Carson Street, Suite 201
Carson City, Nevada 89201

Brian K. O'Hea
Brian K. O'Hea # 90244
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE OF APPEAL filed in District Court Case No. 08C250630 does not contain the social security number of any person.

Dated this 2nd day of October, 2015.

fn: 2 NRS 34-360

Brian K. O'Hea
Brian K. O'Hea

Petitioner In Pro Se

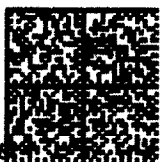
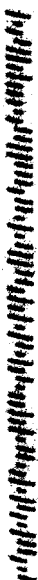
90244

BRIAN O'Keefe # 90244
Lovebeck Correctional Center
1200 Prison Road
Lovebeck, NV. 89419

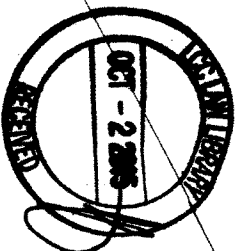
o LEGAL MAIL 8

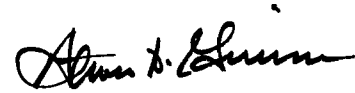
95701 \$4.780

Supreme Court of Nevada
Office of the Clerk
201 S. Carson Street, Suite 201
Carson City, NV. 89701



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Grass Ship





CLERK OF THE COURT

ASTA

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

STATE OF NEVADA,

Plaintiff(s),

vs.

BRIAN K. O'KEEFE,

Defendant(s),

Case No: 08C250630

Dept No: XVII

CASE APPEAL STATEMENT

1. Appellant(s): Brian K. O'Keefe

2. Judge: Michael Villani

3. Appellant(s): Brian K. O'Keefe

Counsel:

Brian K. O'Keefe #90244
1200 Prison Rd.
Lovelock, NV 89419

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: December 19, 2008

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Post-Conviction Relief

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 53859, 58109, 61631, 65217, 65436, 66416, 66956,
68560, 68623, 68739

12. Child Custody or Visitation: N/A

Dated This 20 day of October 2015.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Brian K. O'Keefe

DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630

The State of Nevada vs Brian K O'Keefe

§ Location: Department 17
§ Judicial Officer: Villani, Michael
§ Filed on: 12/19/2008
§ Case Number History:
§ Cross-Reference Case Number: C250630
§ Defendant's Scope ID #: 1447732
§ ITAG Booking Number: 800091294
§ ITAG Case ID: 996896
§ Lower Court Case # Root: 08F23348
§ Lower Court Case Number: 08F23348X
§ Supreme Court No.: 61631
§ 65217
§ 65436
§ 66416
§ 66956
§ 68560
§ 68623

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. MURDER.	F	01/01/1900		
1. DEGREES OF MURDER	F	01/01/1900	Case Flags:	Appealed to Supreme Court
1. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900		Custody Status - Nevada Department of Corrections

Statistical Closures

07/31/2013 Jury Trial - Conviction - Criminal
05/05/2009 USJR Reporting Statistical Closure

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number 08C250630
Court Department 17
Date Assigned 12/28/2008
Judicial Officer Villani, Michael

PARTY INFORMATION

Defendant

O'Keefe, Brian K

Lead Attorneys

Carling, Matthew D.
Retained
702-419-7330(W)

Plaintiff

State of Nevada

Wolfson, Steven B
702-671-2700(W)

DATE












EVENTS & ORDERS OF THE COURT

INDEX











01/01/1900 **Plea** (Judicial Officer: User, Conversion)
1. MURDER.
Not Guilty
PCN: Sequence:

01/01/1900 **Plea** (Judicial Officer: User, Conversion)
1. DEGREES OF MURDER
Not Guilty
PCN: Sequence:

DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630








01/01/1900	Plea (Judicial Officer: User, Conversion) 1. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty PCN: Sequence:
12/19/2008	 Information
12/19/2008	Hearing <i>INITIAL ARRAIGNMENT</i>
12/26/2008	 Criminal Bindover
12/31/2008	 Document Filed <i>Defendant's Submission to Clark County District Attorney's Death Review Committee</i>
01/02/2009	 Reporters Transcript <i>Transcript of Hearing Held on December 17, 2008</i>
01/06/2009	Initial Arraignment (9:00 AM) Events: 12/19/2008 Hearing <i>INITIAL ARRAIGNMENT Court Clerk: Nora Pena/np Relief Clerk: Damedia Scott Reporter/Recorder: Kiara Schmidt Heard By: Kevin Williams</i>
01/07/2009	Hearing <i>ENTRY OF PLEA/TRIAL SETTING</i>
01/20/2009	Entry of Plea (8:00 AM) Events: 01/07/2009 Hearing <i>ENTRY OF PLEA/TRIAL SETTING Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i>
01/26/2009	 Petition for Writ of Habeas Corpus <i>Petition for Writ of Habeas Corpus or in the Alternative Motion to Preclude Prosecution from Seeking First Degree Murder Conviction Based Upon the Failure to Collect Evidence</i>
01/27/2009	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
01/29/2009	 Return to Writ of Habeas Corpus
01/30/2009	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
01/30/2009	 Writ of Habeas Corpus
01/30/2009	 Order
02/02/2009	 Notice of Motion <i>Notice of Motion and Motion to Admit Evidence of Other Crimes</i>
02/02/2009	Motion <i>STATES MTN: ADMIT EVIDENCE OF OF OTHER CRIMES/06</i>

DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630











02/03/2009	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses and/or Expert Witnesses [NRS 174.234(1)(a)]</i>
02/06/2009	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
02/06/2009	 Opposition to Motion Filed By: Defendant O'Keefe, Brian K <i>Opposition to State's Motion to Admit Evidence of Other Bad Acts</i>
02/10/2009	Petition for Writ of Habeas Corpus (8:00 AM) Events: 01/26/2009 Petition for Writ of Habeas Corpus <i>PTN FOR WRIT OF HABEAS CORPUS Heard By: Michael Villani</i>
02/10/2009	Motion to Admit Evidence (8:00 AM) Events: 02/02/2009 Motion <i>STATES MTN: ADMIT EVIDENCE OF OF OTHER CRIMES/06 Heard By: Michael Villani</i>
02/10/2009	All Pending Motions (8:00 AM) <i>ALL PENDING MOTIONS 2-10-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i>
02/10/2009	Motion <i>ALL PENDING MOTIONS 2-10-09</i>
02/10/2009	Hearing <i>EVIDENTIARY HRG: STATE'S MTN TO ADMIT EVIDENCE OF OTHER CRIMES WRONGS OR ACTS</i>
02/10/2009	 Stipulation and Order
02/10/2009	 Amended Information
02/17/2009	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses and/or Expert Witness [NRS 174.234(1)(a)]</i>
02/20/2009	 Notice of Expert Witnesses Filed By: Defendant O'Keefe, Brian K <i>Notice of Defendant's Expert Witness [NRS 174.089(2)]</i>
02/26/2009	Evidentiary Hearing (10:00 AM) Events: 02/10/2009 Hearing <i>EVIDENTIARY HRG: STATE'S MTN TO ADMIT EVIDENCE OF OTHER CRIMES WRONGS OR ACTS Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael</i>
03/04/2009	 Motion <i>Defendant's Motion to Require the Court to Advise the Prospective Jurors as to the Mandatory Sentences Required if the Defendant is Convicted of Second Degree Murder.</i>
03/04/2009	 Order Filed By: Defendant O'Keefe, Brian K <i>Order Authorizing Contact Visit</i>
03/04/2009	 Receipt of Copy

DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630




Filed by: Defendant O'Keefe, Brian K

03/05/2009	 Notice of Expert Witnesses <i>Notice of Expert Witnesses [NRS 174.234(2)]</i>
03/06/2009	 Notice of Witnesses Party: Defendant O'Keefe, Brian K <i>Notice of Defendant's Witnesses [NRS 174.234(1)(b)]</i>
03/10/2009	Calendar Call (8:00 AM) <i>CALENDAR CALL</i>
03/10/2009	Motion (8:00 AM) Events: 03/04/2009 Motion <i>DEFT'S MTN TO REQUIRE COURT TO ADVISE JURORS AS TO MANDATORY SENTENCES /9 Heard By: Michael Villani</i>
03/10/2009	All Pending Motions (8:00 AM) <i>ALL PENDING MOTIONS 3-10-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i>
03/10/2009	Motion <i>ALL PENDING MOTIONS 3-10-09</i>
03/10/2009	 Supplemental <i>Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>
03/10/2009	 Order <i>Order Requiring Material Witness to Post Bail or be Committed to Custody</i>
03/10/2009	 Ex Parte Application <i>Ex Parte Application for Order Requiring Material Witness to Post Bail</i>
03/11/2009	 Supplemental <i>Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>
03/16/2009	Evidentiary Hearing (9:30 AM) <i>EVIDENTIARY HRG: STATE'S MTN TO ADMIT EVIDENCE OF OTHER CRIMES WRONGS OR ACTS</i>
03/16/2009	All Pending Motions (9:30 AM) <i>ALL PENDING MOTIONS 3-16-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i>
03/16/2009	Jury Trial (10:00 AM) <i>TRIAL BY JURY Heard By: Michael Villani</i>
03/16/2009	Motion <i>ALL PENDING MOTIONS 3-16-09</i>
03/16/2009	 Jury List
03/17/2009	Jury Trial (9:30 AM) <i>TRIAL BY JURY Court Clerk: Kristen Brown/A.M. Relief Clerk: Shelly Landwehr/P.M. Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael</i>
03/18/2009	Jury Trial (9:45 AM)

CASE SUMMARY**CASE NO. 08C250630**

	<p><i>TRIAL BY JURY Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael</i></p>
03/18/2009	<p> Reporters Transcript <i>Transcript of Hearing Held on March 17, 2009</i></p>
03/19/2009	<p>Jury Trial (9:00 AM) <i>TRIAL BY JURY Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael</i></p>
03/19/2009	<p> Amended Jury List</p>
03/20/2009	<p>Jury Trial (9:00 AM) <i>TRIAL BY JURY Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i></p>
03/20/2009	<p> Instructions to the Jury</p>
03/20/2009	<p> Verdict</p>
03/20/2009	<p> Supplemental Filed by: Defendant O'Keefe, Brian K <i>Defendant's Supplemental Proposed Jury Instructions</i></p>
03/20/2009	<p> Brief Filed By: Defendant O'Keefe, Brian K <i>Defendant's Brief on Admissibility of Evidence of Alleged Victim's History of Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation (with knives and scissors), and Erratic Behavior</i></p>
03/20/2009	<p> Jury Instructions <i>Defendant's Proposed Jury Instructions</i></p>
03/23/2009	<p>Conversion Case Event Type <i>SENTENCING</i></p>
03/24/2009	<p> Motion <i>Defendant's Motion to Settle Record</i></p>
03/24/2009	<p> Receipt of Copy Filed by: Defendant O'Keefe, Brian K</p>
04/07/2009	<p>Motion (8:00 AM) Events: 03/24/2009 Motion <i>DEFT'S MTN TO SETTLE RECORD/13 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i></p>
05/04/2009	<p> Document Filed Filed by: Defendant O'Keefe, Brian K <i>Letters in Aid of Sentencing</i></p>
05/05/2009	<p>Sentencing (8:00 AM) Events: 03/23/2009 Conversion Case Event Type <i>SENTENCING Court Clerk: Kristen Brown Relief Clerk: Dameda Scott/ds Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i></p>










DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630

05/05/2009	Disposition (Judicial Officer: User, Conversion) 1. MURDER. Guilty PCN: Sequence:
05/05/2009	Disposition (Judicial Officer: User, Conversion)
05/05/2009	Disposition (Judicial Officer: User, Conversion) 1. DEGREES OF MURDER Guilty PCN: Sequence:
05/05/2009	Disposition (Judicial Officer: User, Conversion) 1. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Guilty PCN: Sequence:
05/05/2009	Sentence (Judicial Officer: User, Conversion) 1. MURDER. Adult Adjudication Converted Disposition: Sentence# 0001: Minimum 10 Years to Maximum 25 Years Placement: NSP Converted Disposition: Sentence# 0002: Minimum 96 Months to Maximum 240 Months Placement: NSP Cons/Conc: Consecutive w/Charge Item: 0001 and Sentence#: 0001 Converted Disposition: Sentence# 0003: CREDIT FOR TIME SERVED Minimum 181 Days to Maximum 181 Days
05/05/2009	Sentence (Judicial Officer: Villani, Michael) 1. DEGREES OF MURDER Adult Adjudication
05/05/2009	Sentence (Judicial Officer: Villani, Michael) 1. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Adult Adjudication
05/08/2009	 Judgment of Conviction <i>Judgment of Conviction (Jury Trial)</i>
05/08/2009	Judgment <i>JUDGMENT OF CONVICTION/GENETIC TESTING</i>
05/21/2009	 Request Filed by: Defendant O'Keefe, Brian K <i>Request for Rough Draft Transcript</i>
05/21/2009	 Notice of Appeal (criminal) Party: Defendant O'Keefe, Brian K <i>Notice of Appeal</i>

DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630

05/21/2009	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on May 5, 2009</i>
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on April 7, 2009</i>
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on March 10, 2009</i>
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on February 10, 2009</i>
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on January 20, 2009</i>
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on March 20, 2009</i>
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on March 19, 2009</i>
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on March 18, 2009</i>
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on March 17, 2009</i>
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on March 16, 2009</i>
07/10/2009	 Reporters Transcript <i>Transcript of Hearing Held on March 16, 2009</i>
09/09/2009	 Request <i>Request for Certified Transcript of Proceeding</i>
10/14/2009	 Reporters Transcript <i>Transcript of Hearing Held on March 16, 2009</i>
04/16/2010	Hearing <i>STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL</i>
04/29/2010	Status Check (8:15 AM) Events: 04/16/2010 Hearing <i>STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL Court Clerk: Carol Donahoo Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael</i>
05/06/2010	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>Nevada Supreme Court Clerk's Certificate Judgment - Reversed and Remand</i>

DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630

05/20/2010	Status Check (8:15 AM) <i>STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL Court Clerk: Carol Donahoo Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i>
05/20/2010	Hearing <i>STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL</i>
05/24/2010	 Motion <i>Motion for Judicial Ruling</i>
05/24/2010	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
05/26/2010	 Order for Production of Inmate <i>Order for Production of Inmate Brian O'Keefe, BAC # 129208</i>
06/10/2010	Status Check (8:15 AM) Events: 05/20/2010 Hearing <i>STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL Heard By: Michael Villani</i>
06/10/2010	Motion (8:15 AM) Events: 05/24/2010 Motion <i>MOTION FOR JUDICIAL RULING Heard By: Michael Villani</i>
06/10/2010	All Pending Motions (8:15 AM) <i>ALL PENDING MOTIONS (6/10/10) Relief Clerk: Susan Jovanovich /sj Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i>
06/10/2010	Motion <i>ALL PENDING MOTIONS (6/10/10)</i>
06/29/2010	 Substitution of Attorney Filed by: Defendant O'Keefe, Brian K
06/30/2010	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
06/30/2010	 Ex Parte Motion <i>Ex Parte Motion for Defense Costs</i>
07/01/2010	 Order Granting <i>Order Granting Ex Parte Motion for Defense Costs</i>
07/01/2010	 Receipt <i>Receipt of File</i>
07/21/2010	Motion <i>DEFT'S MTN TO PRECLUDE STATE FROM INTRODCNG VA 7/21/10</i>
07/21/2010	Motion <i>DEFT'S MTN TO ADMIT EVIDENCE /22</i>
07/21/2010	Motion <i>DEFT'S MTN TO PRECLUDE STATE FROM INTRO AT TRIAL OTHER ACT /23</i>
07/21/2010	 Notice of Motion

CASE SUMMARY**CASE NO. 08C250630**

Filed By: Defendant O'Keefe, Brian K

Notice of Motion and Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Other Act or Character Evidence and Other Evidence Which is Unfairly Prejudicial or Would Violate his Constitutional Rights

07/21/2010



Notice of Motion

Filed By: Defendant O'Keefe, Brian K

Notice of Motion and Motion by Defendant O'Keefe to Admit Evidence Pertaining to the Alleged Victim's Mental Health Condition and History, Including Prior Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation and Erratic Behavior

07/21/2010



Notice of Motion

Filed By: Defendant O'Keefe, Brian K

Notice of Motion and Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Other Act or Character Evidence and Other Evidence Which is Unfairly Prejudicial or Would Violate his Constitutional Rights

07/21/2010



Notice of Motion

Filed By: Defendant O'Keefe, Brian K

Notice of Motion and Motion by Defendant O'Keefe to Admit Evidence Pertaining to the Alleged Victim's Mental Health Condition and History, Including Prior Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation and Erratic Behavior

07/29/2010



Supplemental

Filed by: Defendant O'Keefe, Brian K

Supplemental Notice of Defendant's Expert Witnesses [NRS 174.234(2)]

08/02/2010



Notice of Motion

Filed By: Defendant O'Keefe, Brian K

Notice of Motion and Motion by Defendant O'Keefe to Suppress his Statements to Police, or, Alternatively, to Preclude the State from Introducing Portions of his Interrogation

08/02/2010



Notice of Motion

Filed By: Defendant O'Keefe, Brian K

Notice of Motion and Motion by Defendant O'Keefe to Admit Evidence Showing LVMPD Homicide Detectives have Preserved Blood/Breath Alcohol Evidence in Another Recent Case

08/02/2010



Notice of Motion

Filed By: Defendant O'Keefe, Brian K

Notice of Motion and Motion by Defendant O'Keefe for Discovery

08/02/2010



Notice of Motion

Filed By: Defendant O'Keefe, Brian K

Notice of Motion and Motion by Defendant O'Keefe for Evidentiary Hearing on Whether the State and CCDC have Complied with their Obligations with Respect to the Recording of a Jail Visit Between O'Keefe and State Witness Cheryl Morris

08/02/2010



Receipt of Copy

Filed by: Defendant O'Keefe, Brian K

08/02/2010



Receipt of Copy

Filed by: Defendant O'Keefe, Brian K










08/02/2010



Receipt of Copy

Filed by: Defendant O'Keefe, Brian K

DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630

08/02/2010	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
08/03/2010	CANCELED Motion (8:15 AM) Events: 07/21/2010 Motion <i>Vacated</i>
08/10/2010	 Opposition to Motion <i>State's Opposition to Motion for Evidentiary Hearing on Whether the State and CCDC Have Complied with their Obligations with Respect to the Recording of a Jail Visit Between O'Keefe and State Witness Cheryl Morris</i>
08/10/2010	 Opposition to Motion <i>State's Opposition to Motion to Admit Evidence Showing LVMPD Homicide Detectives Have Preserved Blood/Breath Alcohol Evidence in Another Recent Case</i>
08/12/2010	 Motion (8:15 AM) (Judicial Officer: Villani, Michael) 08/12/2010, 08/17/2010, 08/19/2010-08/20/2010 Events: 08/02/2010 Notice of Motion <i>Motion By Defendant O'Keefe To Suppress His Statements To Police Or Alternatively To Preclude The State From Introducing Portions Of His Interrogation</i>
08/12/2010	Motion (8:15 AM) (Judicial Officer: Villani, Michael) 08/12/2010, 08/17/2010 Events: 08/02/2010 Notice of Motion <i>Notice Of Motion And Motion By Defendant O'Keefe To Admit Evidence Showing LVMPD Homicide Detectives Have Preserved Blood/Breath Alcohol Evidence in Another Recent Case</i>
08/12/2010	Motion (8:15 AM) (Judicial Officer: Villani, Michael) Events: 08/02/2010 Notice of Motion <i>Notice Of Motion And Motion By Defendant O'Keefe For Discovery</i>
08/12/2010	Motion (8:15 AM) (Judicial Officer: Villani, Michael) Events: 08/02/2010 Notice of Motion <i>Notice Of Motion And Motion By Defendant O'Keefe For Evidentiary Hearing On Whether The State And CCDC Have Complied With Their Obligations With Respect To The Recording Of A Jail Visit Between O'Keefe And State Witness Cheryl Morris</i>
08/12/2010	 All Pending Motions (8:15 AM) (Judicial Officer: Villani, Michael)
08/12/2010	CANCELED All Pending Motions (8:15 AM) (Judicial Officer: Villani, Michael) <i>Vacated</i>
08/12/2010	 Order Filed By: Defendant O'Keefe, Brian K <i>Order Authorizing Contact Visit</i>
08/13/2010	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
08/13/2010	 Reply to Opposition Filed by: Defendant O'Keefe, Brian K <i>O'Keefe's Reply to State's Opposition to Motion to Admit Evidence Showing LVMPD Homicide Detectives Have Preserved Blood/Breath Alcohol Evidence in Another Recent Case</i>
08/13/2010	 Supplemental Filed by: Plaintiff State of Nevada

DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630

Supplemental Notice of Expert Witnesses [NRS 174.234(2)]

08/16/2010



Response

Filed by: Plaintiff State of Nevada

State's Response to Defendant's Motion to Preclude the State from Introducing at Trial Other Bad Acts or Character Evidence and Other Evidence that is Unfairly Prejudicial or Would Violate his Constitutional Rights

08/16/2010



Opposition to Motion

Filed By: Plaintiff State of Nevada

State's Opposition to Defendant's Motion to Admit Evidence Pertaining to the Alleged Victim's Mental Health Condition and History, Including Prior Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation and Erratic Behavior.

08/16/2010



Order Shortening Time

08/16/2010



Notice of Motion

Filed By: Defendant O'Keefe, Brian K

Notice of Motion and Motion by Defendant O'Keefe to Preclude Expert Testimony

08/16/2010



Ex Parte Motion

Filed By: Defendant O'Keefe, Brian K

Ex Parte Motion for an Order Shortening Time

08/16/2010



Supplemental

Filed by: Defendant O'Keefe, Brian K

Defendant's Supplemental Notice of Witnesses

08/16/2010



Supplemental

Filed by: Plaintiff State of Nevada

Supplemental Notice of Expert Witnesses [NRS 174.234(2)]

08/17/2010

Calendar Call (8:15 AM) (Judicial Officer: Villani, Michael)

08/17/2010

Motion (8:15 AM) (Judicial Officer: Villani, Michael)

08/17/2010, 08/19/2010

Events: 07/21/2010 Motion

Motion By Defendant O'Keefe To Preclude The State From Introduction At Trial Other Act Or Character Evidence And Other Evidence Which Is Unfairly Prejudicial Or Would Violate His Constitutional Rights

08/17/2010

Motion (8:15 AM) (Judicial Officer: Villani, Michael)

08/17/2010, 08/19/2010

Events: 07/21/2010 Motion

Motion By Defendant O'Keefe To Admit Evidence Pertaining To The Alleged Victim's Mental Health Condition And History, Including Prior Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation And Erratic Behavior

08/17/2010

All Pending Motions (8:15 AM) (Judicial Officer: Villani, Michael)

08/17/2010

CANCELED All Pending Motions (8:15 AM) (Judicial Officer: Villani, Michael)

Vacated

duplicate entry

08/17/2010
















Opposition to Motion

Filed By: Plaintiff State of Nevada
















State's Opposition to Defendant's Motion to Suppress his Statements to Police, or,

DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630




Alternatively, to Preclude the State from Introducing Portions of his Interrogation

08/18/2010	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Motion to Preclude Expert Testimony</i>
08/19/2010	Motion (8:15 AM) (Judicial Officer: Villani, Michael) Events: 08/16/2010 Order Shortening Time <i>Order Shortening Time To Preclude Expert Testimony</i>
08/19/2010	Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Availability Of Dr. Benjamin For Trial</i>
08/19/2010	 All Pending Motions (8:15 AM) (Judicial Officer: Villani, Michael)
08/19/2010	 Amended Information Filed By: Plaintiff State of Nevada <i>Second Amended Information</i>
08/19/2010	 Motion Filed By: Attorney Palm, Patricia A. <i>Motion by Defendant O'Keefe to Preclude Late Noticed Expert Testimony from Dr. Dutra</i>
08/23/2010	 Jury Trial (10:00 AM) (Judicial Officer: Villani, Michael) 08/23/2010-08/27/2010, 08/30/2010-09/02/2010
08/23/2010	 Jury Instructions <i>Defendant's Proposed Jury Instructions</i>
08/23/2010	 Order Granting Filed By: Defendant O'Keefe, Brian K <i>Order Granting, in Part, and Denying, in Part, Motion by Defendant O'Keefe for Discovery</i>
08/25/2010	 Jury List
09/02/2010	 Verdict Submitted to the Jury But Returned Unsigned <i>Verdict Submitted to Jury but Returned Unsigned</i>
09/02/2010	 Instructions to the Jury
09/09/2010	 Order Granting Filed By: Defendant O'Keefe, Brian K <i>Order Granting, in Part, and Denying, in Part, Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Other Act or Character Evidence and Other Evidence Which is Unfairly Prejudicial or Would Violate his Constitutional Rights</i>
09/14/2010	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) 09/14/2010, 09/16/2010
09/14/2010	 Order Granting Filed By: Defendant O'Keefe, Brian K <i>Order Granting Request for Transcripts</i>
09/14/2010	 Receipt of Copy











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CASE SUMMARY
CASE NO. 08C250630

09/14/2010	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
09/14/2010	 Motion Filed By: Attorney Palm, Patricia A. <i>Motion to Withdraw</i>
09/16/2010	 Order Granting Filed By: Defendant O'Keefe, Brian K <i>Order Granting Request for Transcripts</i>
09/21/2010	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
09/24/2010	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion and Motion by Defendant O'Keefe for a Reasonable Bail</i>
09/27/2010	 Opposition to Motion <i>State's Opposition to Defendant's Motion for a Reasonable Bail</i>
09/28/2010	 Motion (8:15 AM) (Judicial Officer: Villani, Michael) Events: 09/24/2010 Notice of Motion <i>Notice of Motion and Motion by Defendant O'Keefe for a Reasonable Bail</i>
11/06/2010	 Order
11/23/2010	 Recorders Transcript of Hearing Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 12, 2010</i>
11/23/2010	 Recorders Transcript of Hearing Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on September 1, 2010</i>
11/23/2010	 Recorders Transcript of Hearing Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on September 2, 2010</i>
11/23/2010	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 17, 2010</i>
11/23/2010	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 19, 2010</i>
11/23/2010	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 20, 2010</i>
11/23/2010	 Transcript of Proceedings















DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630

	Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 23, 2010</i>
11/23/2010	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 24, 2010</i>
11/23/2010	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 25, 2010</i>
11/23/2010	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 26, 2010</i>
11/23/2010	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 27, 2010</i>
11/23/2010	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 30, 2010</i>
11/23/2010	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 31, 2010</i>
01/03/2011	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion and Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Improper Evidence and Argument</i>
01/03/2011	 Supplemental <i>Supplemental Notice of Expert Witnesses [NRS 174.234(2)]</i>
01/03/2011	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
01/06/2011	 Notice of Motion <i>Notice of Motion and Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to NRS 48.061</i>
01/07/2011	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion and Motion by Defendant O'Keefe to Dismiss on Grounds of Double Jeopardy Bar and Speedy Trial Violation and, Alternatively, to Preclude State's New Expert Witness, Evidence and Argument Relating to the Dynamics or Effects of Domestic Violence and Abuse</i>
01/12/2011	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K
01/12/2011	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K










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CASE NO. 08C250630

01/12/2011	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Preclude the State from Introducing at Trial Improper Evidence and Argument</i>
01/13/2011	 Motion (8:15 AM) (Judicial Officer: Villani, Michael) Events: 01/03/2011 Notice of Motion <i>Notice of Motion and Motion by Defendant O'keefe to Preclude the State from Introducing at Trial Improper Evidence and Argument</i>
01/13/2011	 Filed Under Seal <i>Exhibit to the Notice of Motion and Motion by Defendant O'Keefe to Dismiss on Grounds of Double Jeopardy Bar and Speedy Trial Violation, and, Alternatively, to Preclude State's New Expert Witness, Evidence and Argument Relating to the Dynamics or Effects of Domestic Violence and Abuse (Filed Under Seal)</i>
01/13/2011	 Filed Under Seal <i>Ex Parte Application and Order to File Under Seal (Filed Under Seal)</i>
01/14/2011	 Supplemental <i>Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>
01/18/2011	 Calendar Call (8:15 AM) (Judicial Officer: Villani, Michael) 01/18/2011, 01/20/2011
01/18/2011	 Receipt of Copy
01/18/2011	 Opposition to Motion <i>Defendant O'Keefe's Opposition to Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to 48.061</i>
01/18/2011	 Opposition to Motion <i>State's Opposition to Motion to Dismiss and, Alternatively, to Preclude Expert and Argument Regarding Domestic Violence</i>
01/20/2011	Motion to Dismiss (8:15 AM) (Judicial Officer: Villani, Michael) Events: 01/07/2011 Notice of Motion <i>Notice of Motion and Motion by Defendant O'Keefe to Dismiss on Grounds of Double Jeopardy bar and Speedy Trial Violation and, Alternatively, to Preclude State's New Expert Witness, Evidence and Argument Relating to the Dynamics or Effects of Domestic Violence and Abuse</i>
01/20/2011	Motion in Limine (8:15 AM) (Judicial Officer: Villani, Michael) Events: 01/06/2011 Notice of Motion <i>Notice of Motion and Motion In Limine To Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 And Evidence of Domestic Violence Pursuant to 48.061</i>
01/20/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Villani, Michael)
01/20/2011	 Order Granting Filed By: Defendant O'Keefe, Brian K <i>Order Granting Request for Transcripts</i>
01/24/2011	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i>

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CASE NO. 08C250630

02/04/2011	 Recorders Transcript of Hearing Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on January 18, 2011</i>
02/04/2011	 Recorders Transcript of Hearing Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on January 13, 2011</i>
02/04/2011	 Recorders Transcript of Hearing Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on September 16, 2010</i>
02/04/2011	 Recorders Transcript of Hearing Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on January 20, 2011</i>
04/07/2011	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Trial Preparation</i>
04/08/2011	 Order to Release Medical Records <i>Order Releasing Medical Records</i>
04/08/2011	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
04/27/2011	 Hearing (9:30 AM) (Judicial Officer: Villani, Michael) 04/27/2011, 05/11/2011 <i>Motion In Limine To Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 And Evidence of Domestic Violence Pursuant to 48.061 . . . Petrocelli Hearing</i>
04/27/2011	 Order Granting <i>Order Granting Request for Transcripts</i>
04/29/2011	 Motion to Withdraw As Counsel Filed By: Defendant O'Keefe, Brian K
05/03/2011	 Certificate of Mailing Filed By: Defendant O'Keefe, Brian K
05/11/2011	Motion to Withdraw as Counsel (9:30 AM) (Judicial Officer: Villani, Michael) Events: 04/29/2011 Motion to Withdraw As Counsel
05/11/2011	 All Pending Motions (9:30 AM) (Judicial Officer: Villani, Michael)
05/19/2011	 Recorders Transcript of Hearing Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on April 27, 2011</i>
05/31/2011	CANCELED Calendar Call (8:15 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i>
06/02/2011	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Confirmation of Counsel</i>

DEPARTMENT 17
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CASE NO. 08C250630

06/06/2011	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i>
06/13/2011	 Receipt of Copy
07/21/2011	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: File/Reset Trial Date and Date for Petrocelli Hearing</i>
10/03/2011	 Motion to Dismiss Counsel Party: Defendant O'Keefe, Brian K <i>Motion to Dismiss Appointed Counsel and for Faretta Hearing</i>
10/13/2011	 Motion (8:15 AM) (Judicial Officer: Villani, Michael) Events: 10/03/2011 Motion to Dismiss Counsel <i>Pro Se Motion to Dismiss Appointed Counsel and for Faretta Hearing</i>
10/26/2011	 Motion Filed By: Defendant O'Keefe, Brian K <i>Motion to Place on Calendar</i>
11/08/2011	 Motion to Clarify (8:15 AM) (Judicial Officer: Brennan, James) <i>Motion to Place on Calendar</i>
11/10/2011	 Order Filed By: Defendant O'Keefe, Brian K <i>Order for Return of Fees</i>
11/28/2011	 Motion <i>Motion to Place on Calendar</i>
11/28/2011	 Motion Filed By: Defendant O'Keefe, Brian K <i>Motion to Withdraw Counsel and Faretta Canvass</i>
12/08/2011	Motion (8:15 AM) (Judicial Officer: Villani, Michael) Events: 11/28/2011 Motion <i>Motion to Place on Calendar</i>
12/08/2011	Motion (8:15 AM) (Judicial Officer: Villani, Michael) 12/08/2011, 12/16/2011 Events: 11/28/2011 Motion <i>Pro Se Motion to Withdraw Counsel and Faretta Canvass</i>
12/08/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Villani, Michael) <i>Deft.'s Motion to Place on Calendar . . . Deft.'s Motion to Withdraw Counsel</i>
12/16/2011	Faretta Canvass (8:45 AM) (Judicial Officer: Villani, Michael)
12/16/2011	 All Pending Motions (8:45 AM) (Judicial Officer: Villani, Michael) <i>Deft.'s Motion to Withdraw Counsel . . . Faretta Canvass</i>
02/17/2012	 Hearing (8:45 AM) (Judicial Officer: Villani, Michael) <i>Continued Hearing: Motion in Limine to Present Evidence of Other Bad Acts (Filed 01/06/11)</i>

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CASE NO. 08C250630


03/01/2012	 Decision (8:15 AM) (Judicial Officer: Villani, Michael) <i>Decision: Motion in Limine to Present Evidence of Other Bad Acts</i>
03/13/2012	 Order Granting Filed By: Plaintiff State of Nevada <i>Order Granting, in Part, the State's Motion to Admit Evidence of Other Bad Acts</i>
03/15/2012	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Order (Decision 03/01/12)</i>
03/16/2012	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion and Motion to Dismiss Based Upon Violation(s) of the Fifth Amendment Component of the Double Jeopardy Clause, Constitutional Collateral Estoppel and, Alternatively, Claiming Res Judicata, Enforceable by the Fourteenth Amendment Upon the States Precluding State's Theory of Prosecution by Unlawful Intentional Stabbing with Knife, the Alleged Battery Act Described in the Amended Information.</i>
03/16/2012	 Appendix Filed By: Defendant O'Keefe, Brian K <i>Appendix of Exhibits for; Motion to Dismiss Based Upon Violation(s) of the Fifth Amendment Component of the Double Jeopardy Clause, Constitutional Collateral Estoppel and, Alternatively, Claiming Res Judicata, Enforceable by the Fourteenth Amendment Upon the States Precluding State's Theory of Prosecution by Unlawful Intentional Stabbing with Knife, the Alleged Battery Act Described in the Amended Information.</i>
03/21/2012	 Opposition to Motion to Dismiss Filed By: Plaintiff State of Nevada <i>State's Opposition to Motion to Dismiss</i>
03/22/2012	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion and Motion to Seal Records</i>
03/29/2012	 Motion to Dismiss (8:15 AM) (Judicial Officer: Villani, Michael) Events: 03/16/2012 Notice of Motion <i>Notice of Motion and Motion to Dismiss Based Upon Violation(s) of the Fifth Amendment Component of the Double Jeopardy Clause, Constitutional Collateral Estoppel and Alternatively, Claiming Res Judicata, Enforceable by the Fourteenth Amendment Upon the States Precluding State's Theory of Prosecution by Unlawful Intentional Stabbing with Knife, the Alleged Battery Act Described in the Amended Information</i>
03/29/2012	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion and Motion to Admit Evidence of Polygraph Examination Results</i>
04/03/2012	 Motion Filed By: Defendant O'Keefe, Brian K <i>Motion for Complete Rough Draft Transcript</i>
04/05/2012	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Motion to Seal Records</i>
04/10/2012	 Motion (8:15 AM) (Judicial Officer: Villani, Michael)

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CASE NO. 08C250630


04/10/2012, 04/26/2012

Events: 03/22/2012 Notice of Motion
Notice of Motion and Motion to Seal Records


04/11/2012

 Order Denying Motion
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Motion to Dismiss


04/17/2012

 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 04/03/2012 Motion
Motion for Complete Rough Draft Transcript

04/17/2012

 Supplemental
Filed by: Plaintiff State of Nevada
State's Supplemental Opposition to Motion to Seal Records


04/19/2012

 Filing
Filed By: Defendant O'Keefe, Brian K
Filing in Support of Motion to Seal Records as Ordered by Judge


04/26/2012

Motion (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 03/29/2012 Notice of Motion
Pro Se Notice of Motion and Motion to Admit Evidence of Polygraph Examination Results

04/26/2012

 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Deft.'s Motion to Seal Records . . . Deft.'s Motion to Admit Evidence of Polygraph Examination Results

04/30/2012

 Order
Filed By: Defendant O'Keefe, Brian K
Order for Transcripts


05/17/2012

 Supplemental
Filed by: Plaintiff State of Nevada
Supplemental Notice of Expert Witnesses [NRS 174.234(2)]


05/24/2012

 Order Denying Motion
Order Denying Defendant's Motion to Seal Records & Defendant's Motion to Admit Evidence of Polygraph Examination

05/29/2012

 **Request** (8:15 AM) (Judicial Officer: Villani, Michael)
State's Request: Trial Ready

06/01/2012

 Motion to Continue Trial
Filed By: Defendant O'Keefe, Brian K


06/05/2012

Calendar Call (8:15 AM) (Judicial Officer: Villani, Michael)














06/05/2012

Motion to Continue Trial (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 06/01/2012 Motion to Continue Trial
Deft.'s Motion to Continue Trial

06/05/2012

 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Calendar Call . . . Deft.'s Motion to Continue Trial

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CASE NO. 08C250630












06/11/2012	 Jury Trial (9:30 AM) (Judicial Officer: Bonaventure, Joseph T.) 06/11/2012-06/15/2012
06/12/2012	 Jury List
06/15/2012	 Verdict
07/17/2012	 Request <i>Request for Rough Draft Transcripts</i>
08/08/2012	 PSI
08/16/2012	 Sentencing (8:15 AM) (Judicial Officer: Villani, Michael) 08/16/2012, 08/28/2012
08/28/2012	Amended Sentence (Judicial Officer: User, Conversion) 1. MURDER. Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum: 120 Months, Maximum: 300 Months Consecutive Enhancement: Minimum: 8 Years, Maximum: 20 Years Credit for Time Served: 1394 Days Comments: \$25 ADM Fee, Waived if Already Paid, and the \$150 DNA Analysis Fee including testing to determine genetic marks, Waived if already paid.
08/28/2012	Amended Sentence (Judicial Officer: Villani, Michael) 1. DEGREES OF MURDER Adult Adjudication
08/28/2012	Amended Sentence (Judicial Officer: Villani, Michael) 1. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Adult Adjudication
08/30/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on December 16, 2011</i>
08/30/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on February 17, 2012</i>
08/30/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on March 29, 2012</i>
08/30/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on June 5, 2012</i>
08/31/2012	 Notice of Appeal (criminal) Party: Defendant O'Keefe, Brian K <i>Notice of Appeal</i>
09/04/2012	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K
09/04/2012	 Transcript of Proceedings Party: Plaintiff State of Nevada

DEPARTMENT 17
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CASE NO. 08C250630

Transcript of Hearing Held on June 15, 2012

09/04/2012	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on June 14, 2012</i>
09/04/2012	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on June 13, 2012</i>
09/04/2012	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on June 12, 2012</i>
09/04/2012	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on June 11, 2012</i>
09/05/2012	 Judgment of Conviction <i>Judgment of Conviction (Jury Trial)</i>
09/06/2012	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Appointment of Appellate Counsel</i>
09/13/2012	 Notice of Appeal (criminal) Party: Defendant O'Keefe, Brian K <i>Notice of Appeal</i>
09/24/2012	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K
11/20/2012	 Request Filed by: Defendant O'Keefe, Brian K <i>Request for Rough Draft Transcripts</i>
12/03/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on August 16, 2012</i>
12/03/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on August 28, 2012</i>
07/26/2013	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
07/31/2013	 Criminal Order to Statistically Close Case
12/06/2013	 Petition for Writ of Mandamus Filed by: Defendant O'Keefe, Brian K <i>Petition for a Writ of Mandamus or, in the Alternative, Writ of Coram Nobis</i>
12/06/2013	 Notice of Motion Filed By: Plaintiff State of Nevada <i>Notice of Motion Motion to Waive Filing Fees for Petition for Writ of Mandamus</i>















DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630

12/06/2013	 Ex Parte Motion Filed By: Defendant O'Keefe, Brian K <i>(Ex Parte) Motion to Appoint Counsel</i>
12/13/2013	 Ex Parte Motion Filed By: Defendant O'Keefe, Brian K <i>Ex Parte Motion for Reimbursement of Legal Cost of Faretta Canvassed Defendant to Above Instant Case.</i>
12/31/2013	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Petition for a Writ of Mandamus or in the Alternative Writ of Coram Nobis and Response to Motion to Appoint Counsel</i>
01/07/2014	Petition for Writ of Mandamus (8:15 AM) (Judicial Officer: Villani, Michael) <i>Defendant - Petition for a Writ of Mandamus or, in the Alternative, Writ of Coram Nobis</i>
01/07/2014	Petition to Proceed in Forma Pauperis (8:15 AM) (Judicial Officer: Villani, Michael) <i>Defendant - Motion to Waive Filing Fees for Petition for Writ of Mandamus</i>
01/07/2014	Motion for Appointment of Attorney (8:15 AM) (Judicial Officer: Villani, Michael) <i>Defendant - (Ex Parte) Motion to Appoint Counsel</i>
01/07/2014	 All Pending Motions (8:15 AM) (Judicial Officer: Villani, Michael) <i>Def't.'s Petition for Writ of Mandamus or, in the Alternative, Writ of Coram Nobis . . . Def't.'s Motion to Waive Filing Fees for Petition for Writ of Mandamus . . . Def't.'s Motion to Appoint Counsel</i>
01/13/2014	 Ex Parte Motion Filed By: Defendant O'Keefe, Brian K <i>Ex Parte Motion for Production of Documents, (Specific) Papers, Pleadings and Tangible Property of Defendant</i>
01/13/2014	 Notice of Motion Filed By: Defendant O'Keefe, Brian K
01/21/2014	 Ex Parte Motion Filed By: Defendant O'Keefe, Brian K <i>Ex-Parte Motion for Reimbursement of Incidental Costs Subsequent the Court Declaring Defendant Indigent and Granting Forma Pauperis</i>
01/21/2014	 Notice of Motion Filed By: Defendant O'Keefe, Brian K
01/27/2014	 Motion to Modify Sentence <i>Motion to Modify and/or Correct Illegal Sentence</i>
01/27/2014	 Notice of Motion Filed By: Defendant O'Keefe, Brian K
01/28/2014	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Petition for Writ of Mandamus or, in the Alternative, Writ of Coram Nobis Order Denying Defendant's Motion to Waive Filing Fees for Petition for Writ of Mandamus Order Denying Defendant's Motion to Appoint Counsel</i>













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01/28/2014	 Ex Parte Motion Filed By: Defendant O'Keefe, Brian K <i>Ex-Parte Motion to Extend Prison Copywork Limit</i>
02/04/2014	 Motion (8:15 AM) (Judicial Officer: Villani, Michael) <i>Ex-Parte Motion for Production of Documents, (Specific) Papers, Pleadings, and Tangible Property of Deft.</i>
02/07/2014	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's (Ex-Parte) "Motion for Reimbursement of Incidental Costs Subsequent the Court Declaring Defendant Indigent and Granting Forma Pauperis"</i>
02/11/2014	 Motion (8:15 AM) (Judicial Officer: Villani, Michael) <i>Deft.'s Ex-Parte Motion for Reimbursement of Incidental Costs Declaring Defendant Indigent and Granting Forma Pauperis</i>
02/24/2014	 Reply to Opposition Filed by: Defendant O'Keefe, Brian K <i>ProSe "Reply" to State's Opposition to Defendant's (Ex-Parte) "Motion for Reimbursement of Incidental Costs Subsequent the Court Declaring Defendant Indigent and Granting Froma Pauperis"</i>
02/24/2014	 Motion Filed By: Defendant O'Keefe, Brian K <i>Motion for Judicial Notice-the State's Failure to File and Serve Response in Opposition</i>
02/24/2014	 Notice of Motion Filed By: Defendant O'Keefe, Brian K
02/24/2014	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Pro Per Motion to Modify and/or Correct Illegal Sentence</i>
02/27/2014	 Motion (8:15 AM) (Judicial Officer: Villani, Michael) <i>Motion to Modify and/or Correct Illegal Sentence</i>
02/28/2014	 Order Granting Filed By: Plaintiff State of Nevada <i>Order Granting and Denying in Part Defendant's Ex-Parte Motion for Production of Documents (Specific) Papers, Pleadings, and Tangible Property of Defendant</i>
03/04/2014	 Reply to Opposition Filed by: Defendant O'Keefe, Brian K <i>Pro Se "Reply" to State's Opposition to Defendant's Pro Se Motion to Modify and/or Correct Illegal Sentence</i>
03/04/2014	 Notice of Motion Filed By: Defendant O'Keefe, Brian K
03/06/2014	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Order (02/11/14)</i>












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03/10/2014	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion for Judicial Notice - the State's Failure to File and Serve Response in Opposition</i>
03/11/2014	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Ex-Parte Motion for Reimbursement of Incidental Costs Declaring Defendant Indigent and Granting Forma Pauperis</i>
03/13/2014	 Notice of Appeal (criminal) Party: Defendant O'Keefe, Brian K <i>Notice of Appeal</i>
03/14/2014	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K
03/18/2014	 Motion (8:15 AM) (Judicial Officer: Villani, Michael) <i>Defendant's Pro Per Motion for Judicial Notice-the State's Failure to File and Serve Response in Opposition</i>
03/20/2014	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Order of 2/27/14</i>
03/25/2014	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion to Modify and/or Correct Illegal Sentence</i>
04/01/2014	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion for Judicial Notice-the State's Failure to File and Serve Response in Opposition</i>
04/03/2014	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Order (03/18/14)</i>
04/11/2014	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
04/11/2014	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K
06/06/2014	 Notice of Change of Address Filed By: Defendant O'Keefe, Brian K <i>Notice of Change of Address</i>
06/18/2014	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
07/23/2014	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion</i>












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07/23/2014	 Motion for Relief Filed By: Defendant O'Keefe, Brian K <i>Motion for Relief from Judgment Based on Lack of Jurisdiction for U.S. Court of Appeals had not Issued Any Remand, Mandate or Remittitur</i>
08/07/2014	 Response Filed by: Plaintiff State of Nevada <i>State's Response And Motion To Dismiss Defendant's Motion For Relief From Judgment Based On Lack Of Jurisdiction For U.S. Court Of Appeals Had Not Issues Any Remand, Mandate Or Remittature</i>
08/14/2014	 Motion for Relief (8:15 AM) (Judicial Officer: Villani, Michael) <i>Defendant's Motion for Relief from Judgment Based on Lack of Jurisdiction for U.S. Court of Appeals had not Issued Any Remand, Mandate or Remittitur</i>
08/28/2014	 Notice Filed By: Defendant O'Keefe, Brian K <i>Exparte and/or Notice of Motion</i>
08/28/2014	 Ex Parte Filed By: Defendant O'Keefe, Brian K <i>Ex Parte and/or Notice of Motion and Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit 3:14- CV-00385-RCJ-WGC Against Judge Michael Villani for Proceeding in Clear "Want of Jurisdiction" Thereby Losing Immunity, Absolutely</i>
08/29/2014	 Notice of Appeal (criminal) Party: Defendant O'Keefe, Brian K <i>Notice of Appeal</i>
08/29/2014	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion</i>
08/29/2014	 Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion and Motion for Leave of Court to File Motion for Rehearing - Pursuant to EDCR, Rule 2.24</i>
09/02/2014	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K <i>Case Appeal Statement</i>
09/04/2014	 Order Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Motion For Relief From Judgment Based On Lack Of Jurisdiction For U.S. Court Of Appeals Had Not Issues Any Remand, Mandate Or Remittature</i>
09/04/2014	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Order (08/14/14)</i>
09/12/2014	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Pro Per Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit Against Judge Michael Villani for Proceeding in Clear "Want Of Jurisdiction" Thereby Losing Immunity, Absolutely!</i>









DEPARTMENT 17
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09/12/2014	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition To Defendant's Pro Per Motion For Leave Of Court To File Motion. . . Rule 2.4</i>
09/15/2014	 Petition for Writ of Habeas Corpus Filed by: Defendant O'Keefe, Brian K <i>Pro Per Petition for Writ of Habeas Corpus</i>
09/15/2014	 Ex Parte Motion Filed By: Defendant O'Keefe, Brian K <i>Pro Per Ex Parte Motion for Appointment of Counsel Pursuant to NRS 34.750</i>
09/15/2014	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>Pro Per Notice of Motion</i>
09/15/2014	 Exhibits Filed By: Defendant O'Keefe, Brian K <i>Pro Per Exhibits to Petition for Writ of Habeas Corpus Bt A True Pretrial Detainee</i>
09/18/2014	 Motion (8:15 AM) (Judicial Officer: Togliatti, Jennifer) 09/18/2014, 10/03/2014 <i>Ex Parte Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit 3:14- CV-00385-RCJ-WGC Against Judge Michael Villani for Proceeding in Clear " Want of Jurisdiction" Thereby Losing Immunity, Absolutely</i>
09/23/2014	 Minute Order (8:15 AM) (Judicial Officer: Villani, Michael)
09/24/2014	 Affidavit <i>Affidavit of the Honorable Michael P. Villani</i>
10/01/2014	 Reply to Opposition Filed by: Defendant O'Keefe, Brian K <i>"True Pretrial Detainee's" Reply to State's Opposition(s) Admitting the State has a Jurisdictional Defect by the Filing of a Notice of Appeal Which Divests Jurisdiction of the Matter Appealed, i.e., O'Keefe's Pretrial Habeas Matter Appealed to the 9th Circuit on the Subject Matter of the Amended Information Already Named a Double Jeopardy Violation (1)</i>
10/01/2014	 Supplement Filed by: Defendant O'Keefe, Brian K <i>Petitioner's Supplement with Exhibit of Oral Argument Scheduled by the Ninth Circuit Court of Appeals for November 17, 2014, Courtroom #1 at 9:00 A.M. in San Francisco California</i>
10/02/2014	CANCELED Motion (3:00 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Law Clerk</i> <i>Notice of Motion and Motion for Leave of Court to File Motion for Rehearing - Pursuant to EDCR, Rule 2.24</i>
10/03/2014	 Petition Filed by: Defendant O'Keefe, Brian K <i>"Evidentiary Hearing Request" (Amended Petition for Writ of Habeas Corpus Pursuant to NRS 34.360 Exclusive Based on Subject-Matter of Amended Information Vested in Ninth Circuit by Notice of Appeal then "COA" Granted on a Double Jeopardy Violation with No Remand Issued Since)</i>

DEPARTMENT 17
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CASE NO. 08C250630

10/03/2014	 Exhibits Filed By: Defendant O'Keefe, Brian K <i>Exhibits to "Amended" Petition for Writ of Habeas Corpus by a True Pretrial Detainee</i>
10/06/2014	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Motion to Disqualify</i>
10/10/2014	 Response Filed by: Plaintiff State of Nevada <i>State's Response And Motion To Dismiss To Defendant's Pro Per Petition For Writ Of Habeas Corpus Pursuant To NRS 34.360 Exclusive Based On Subject-Matter Of Amended Information Vested In Ninth Circuit By Notice Of Appeal Then "COA" Granted On A Double Jeopardy Violation With No Remand Issued Since (Post Conviction), Amended Petition And Accompanying Exhibits, Opposition To Request For Evidentiary Hearing, And Opposition To Pro Per Motion To Appoint Counsel</i>
10/15/2014	 Order for Petition for Writ of Habeas Corpus
10/16/2014	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Stay</i>
10/27/2014	 Reply Filed by: Defendant O'Keefe, Brian K <i>"Reply" to State's Response and Motion to Dismiss to Defendant's Pro Per Petition for Writ of Habeas Corpus Pursuant to NRS 34.360...Since</i>
10/29/2014	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
11/06/2014	Petition for Writ of Habeas Corpus (8:15 AM) (Judicial Officer: Villani, Michael) <i>Amended Petition for Writ of Habeas Corpus Pursuant to NRS 34.360 Exclusive Based on Subject Matter of Amended Information Vested in Ninth Circuit by Notice of Appeal then "COA" Granted on a Double Jeopardy Violation with No Remand Issued Since</i>
11/06/2014	Response and Countermotion (8:15 AM) (Judicial Officer: Villani, Michael) <i>State's Response And Motion To Dismiss To Defendant's Pro Per Petition For Writ Of Habeas Corpus Pursuant To NRS 34.360 Exclusive Based On Subject-Matter Of Amended Information Vested In Ninth Circuit By Notice Of Appeal Then "COA" Granted On A Double Jeopardy Violation With No Remand Issued Since (Post Conviction), Amended Petition And Accompanying Exhibits, Opposition To Request For Evidentiary Hearing, And Opposition To Pro Per Motion To Appoint Counsel</i>
11/06/2014	 All Pending Motions (8:15 AM) (Judicial Officer: Villani, Michael) <i>Amended Petition for Writ of Habeas Corpus . . . State's Response and Motion to Dismiss Deft.'s Petition for Writ of Habeas Corpus</i>
11/20/2014	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Confirmation of Counsel</i>
11/21/2014	 Notice of Appeal (criminal) Party: Defendant O'Keefe, Brian K <i>Notice of Appeal</i>
11/24/2014	 Case Appeal Statement

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	Filed By: Defendant O'Keefe, Brian K <i>Case Appeal Statement</i>
01/08/2015	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: File/Set Briefing Schedule</i>
02/06/2015	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed; Rehearing Denied</i>
02/25/2015	 Notice Filed By: Defendant O'Keefe, Brian K <i>Judicial Notice Pursuant NRS 47.140(1)-NRS 47.150(2) supporting Pro-Se Petition Pursuant NRS 34.360 See NRS 47.140(1) Federal Statutes 1291.2253 See NRS 47.150(2) Ninth Circuit Memorandum Filed Fed 02,2015</i>
03/12/2015	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
04/08/2015	 Supplemental Filed by: Defendant O'Keefe, Brian K <i>Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)</i>
06/02/2015	 Response Filed by: Plaintiff State of Nevada <i>State's Response To Defendant's Pro Per Post-Conviction Petition For Writ Of Habeas Corpus</i>
06/08/2015	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion</i>
06/08/2015	 Motion to Withdraw As Counsel <i>Deft.'s Pro Per Motion To Withdraw Counsel for Conflict and Failure to Present Claims when I.A.C. Claims must Be Raised per Statute in the First Petition Pursuant Chapter 34</i>
06/12/2015	 Supplemental Filed by: Defendant O'Keefe, Brian K <i>Supplemental Appendix of Exhibits to Petition for a Writ of Habeas Corpus Exhibits One(1) Through Twenty-Five (25)</i>
06/15/2015	 Supplemental Filed by: Defendant O'Keefe, Brian K <i>Supplemental Petition for Writ of Habeas Corpus</i>
06/15/2015	 Motion Filed By: Defendant O'Keefe, Brian K <i>Motion for Leave to File Supplemental Petition Addressing All Claims in the First Instance Required by Statute for Judicial Economy with Affidavit</i>
06/16/2015	 Reply Filed by: Defendant O'Keefe, Brian K <i>Reply to State's Response to Defendant's Pro Per Post Conviction Petition for Habeas Corpus</i>
06/17/2015	 Supplement Filed by: Defendant O'Keefe, Brian K

CASE SUMMARY**CASE NO. 08C250630**

Supplement with Notice Pursuant NRS 47.150 (2); NRS 47.140 (1), That the United States Supreme Court has Docketed (#14 -10093)the Pretial Habeas Corpus Matter Pursuant

06/24/2015

**Ex Parte Motion**

Filed By: Defendant O'Keefe, Brian K

Ex Parte Motion to Extend Prison Copywork Limit

06/25/2015

**Opposition**

Filed By: Plaintiff State of Nevada

State's Opposition to Defendant's Motion to Withdraw Counsel for Conflict and Failure to Present Claims When I.A.C. Claims Must be Raised Per Statute in the First Petition Pursuant to Chapter 34

06/29/2015

**Affidavit**

Filed By: Defendant O'Keefe, Brian K

Affidavit of Matthew D. Carling, Esq.

06/29/2015

**Certificate of Service**

Filed by: Defendant O'Keefe, Brian K

Certificate of Service

06/30/2015

**Motion to Withdraw as Counsel** (8:30 AM) (Judicial Officer: Villani, Michael)*Deft.'s Motion to Withdraw Counsel for Conflict and Failure to Present Claims ...*

07/09/2015

**Response**

Filed by: Plaintiff State of Nevada

State's Response to Defendant's Pro Per Supplemental Petition for Writ of Habeas Corpus and Evidentiary Hearing Request, "Motion for Leave to File Supplemental Petition Addressing all Claims in the First Instance Required by Statute for Judicial Economy with Affidavit," "Reply to State's Response to Defendant's Pro Per Post Conviction Petition for Habeas Corpus," and "Supplement with Notice Pursuant NRS 47.150(2); NRS 47.140(1), that the United States Supreme Court has Docketed (#14 - 10093) the Pretrial Habeas Corpus Matter Pursuant 28 USC 2241(C)(3) from the Mooting of Petitioner's Section 2241 Based on a Subsequent Judgment Obtained in Want of Jurisdiction While Appeal Pending"

07/10/2015

**Hearing** (9:30 AM) (Judicial Officer: Villani, Michael)**07/10/2015, 09/04/2015***Hearing: Petition for Writ of Habeas Corpus (Post-Conviction)*

07/10/2015

Motion for Leave (9:30 AM) (Judicial Officer: Hardcastle, Kathy)*Motion for Leave to File Supplemental Petition Addressing All Claims in the First Instance Required by Statute for Judicial Economy with Affidavit*

07/10/2015

**All Pending Motions** (9:30 AM) (Judicial Officer: Hardcastle, Kathy)

07/13/2015

**Supplement**

Filed by: Defendant O'Keefe, Brian K

Supplement to Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)

07/15/2015

**Order**











Filed By: Plaintiff State of Nevada

Order Denying Defendant's Pro Per Motion to Withdraw Counsel for Conflict and Failure to Present Claims When I.A.C. Claims Must be Raised Per Statute in the First Petition Pursuant to Chapter 34








07/15/2015

**Order**

DEPARTMENT 17
CASE SUMMARY
CASE NO. 08C250630

	Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion for Leave to File Supplemental Petition Addressing all Claims in the First Instance Required by Statute for Judicial Economy with Affidavit</i>
07/16/2015	 Motion (8:30 AM) (Judicial Officer: Villani, Michael) 07/16/2015, 07/30/2015 <i>Defendant's Ex Parte Motion to Extend Prison Copywork Limit</i>
07/30/2015	CANCELED Status Check (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated</i> <i>Status Check: Order (06/30/15)</i>
07/31/2015	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Supplement to Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)</i>
07/31/2015	 Notice of Appeal (criminal) Party: Defendant O'Keefe, Brian K <i>Notice of Appeal</i>
08/04/2015	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K <i>Case Appeal Statement</i>
08/11/2015	 Notice of Appeal (criminal) Party: Defendant O'Keefe, Brian K <i>Notice of Appeal</i>
08/12/2015	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K <i>Case Appeal Statement</i>
08/13/2015	 Order Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Ex Parte Motion to Extend Prison Copywork Limit</i>
08/24/2015	 Reply Filed by: Defendant O'Keefe, Brian K <i>Reply to State's Response to Defendant's Supplemental Petition for Writ of Habeas Corpus</i>
08/25/2015	 Reply Filed by: Defendant O'Keefe, Brian K <i>Reply in Support of Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)</i>
08/27/2015	CANCELED Status Check (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated</i> <i>Status Check: Order (07/30/15)</i>
09/03/2015	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Reply in Support of Supplemental Post-Conviction Petition for Writ of Habeas Corpus</i>
09/23/2015	

DEPARTMENT 17
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	 Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion and Motion to Withdraw as Attorney of Record</i>	
09/28/2015	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>	
09/29/2015	 Motion Filed By: Defendant O'Keefe, Brian K <i>Notice of Motion and Motion to Withdraw as Attorney of Record</i>	
10/02/2015	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada	
10/06/2015	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>	
10/07/2015	 Notice of Appeal (criminal) <i>(Notice of Appeal Pursuant NRAP 4(c))</i>	
10/20/2015	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K <i>Case Appeal Statement</i>	
10/20/2015	Motion to Withdraw as Counsel (8:30 AM) (Judicial Officer: Bixler, James) <i>Matthew D. Carling's Motion to Withdraw as Attorney of Record for Defendant</i>	

DATE

FINANCIAL INFORMATION

Defendant O'Keefe, Brian K	
Total Charges	195.00
Total Payments and Credits	195.00
Balance Due as of 10/20/2015	0.00

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
CHRISTOPHER LALLI
Assistant Clark County District Attorney
Nevada Bar #005398
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

BRYAN O'KEEFE,
aka Brian Kerry O'Keefe, #1447732
Defendant.

CASE NO: 08C250630
DEPT NO: XVII

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: SEPTEMBER 4, 2015
TIME OF HEARING: 9:30 AM

THIS CAUSE having come on for hearing before the Honorable VILLANI, District Judge, on the 4th day of September, 2015, the Petitioner not being present, REPRESENTED BY CARLING, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through CHRISTOPHER LALLI, Assistant Clark County District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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RECEIVED BY
DEPT 17 ON
SEP 25 2015

1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 BRYAN O'KEEFE, aka Brian Kerry O'Keefe's " (hereinafter "Defendant"), was
3 charged by way of Information on December 19, 2008 with one count of Murder with Use of
4 a Deadly Weapon (Open Murder) (Felony – NRS 200.010, 200.030, 193.165).¹

5 Defendant proceeded to trial on March 17, 2009. On March 20, 2009, the jury returned
6 a verdict of guilty on the charge of Second Degree Murder with Use of a Deadly Weapon.
7 Defendant appealed to the Nevada Supreme Court and on April 7, 2010, this Court reversed
8 and remanded his case for a new trial due to a jury instruction issue; Remittitur issued May 3,
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4 That the United States Supreme Court has Docketed (#14-10093) the Pretrial Habeas Corpus
5 Matter Pursuant.” The State’s response was filed on July 9, 2015.

6 **I. Defendant’s Petition is Time Barred**

7 The Court finds Defendant’s Petition for Writ of Habeas Corpus is time barred pursuant
8 to NRS 34.726(1):

9 Unless there is good cause shown for delay, a petition that
10 challenges the validity of a judgment or sentence must be filed
11 within 1 year of the entry of the judgment of conviction or, if an
12 appeal has been taken from the judgment, within 1 year after the
13 Supreme Court issues its remittitur. For the purposes of this
14 subsection, good cause for delay exists if the petitioner
demonstrates to the satisfaction of the court:

- 15 (a) That the delay is not the fault of the petitioner; and
16 (b) That dismissal of the petition as untimely will
17 unduly prejudice the petitioner.

18 The Supreme Court of Nevada has held that NRS 34.726 should be construed by its
19 plain meaning. Pellegrini v. State, 117 Nev. 860, 873-74, 34 P.3d 519, 528 (2001). As per
20 the language of the statute, the one-year time bar prescribed by NRS 34.726 begins to run from
21 the date the Judgment of Conviction is filed or a remittitur from a timely direct appeal is filed.
22 Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

23 The one-year time limit for preparing petitions for post-conviction relief under NRS
24 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002),
25 the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late despite
26 evidence presented by the defendant that he purchased postage through the prison and mailed
27 the Notice within the one-year time limit.

28 This Court finds that the Notice of Remittitur was issued from Defendant’s timely direct
appeal on July 23, 2013. Thus, the one-year time bar began to run from that date. Defendant’s
Post-Conviction Writ of Habeas Corpus was filed on September 15, 2014, over one year after

1 the date of Remittitur and in excess of the one-year time frame. Thus, Defendant's claim is
2 denied as it is untimely in violation of NRS 34.762(1).

3 **II. Defendant Has Not Shown Good Cause to Overcome the Procedural Bars**

4 Defendant's Reply in Support of the Supplemental Petition, includes the appropriate
5 provision under NRS 34.726 for "good cause," and Defendant re-states the claims that
6 consideration of his Pro Per Motion for Stay of the Remittitur would make his Petition timely.

7 NRS 34.726(1) provides:

8 Unless there is good cause shown for delay, a petition that
9 challenges the validity of a judgment or sentence must be filed
10 within 1 year of the entry of the judgment of conviction or, **if an
11 appeal has been taken from the judgment, within 1 year after
12 the Supreme Court issues its remittitur.** For the purposes of this
13 subsection, **good cause for delay exists if the petitioner
14 demonstrates to the satisfaction of the court:**

- 15 (a) That the delay is not the fault of the petitioner;
16 and
17 (b) That dismissal of the petition as untimely will
18 unduly prejudice the petitioner.

19 (emphasis added). As Defendant's Petition was filed more than a year after Remittitur from
20 his direct appeal issued on July 23, 2013, his Petition is untimely and must be dismissed absent
21 a showing of good cause.

22 To avoid procedural default under NRS 34.726 and NRS 34.810, a defendant has the
23 burden of pleading and proving specific facts that demonstrate good cause for his failure to
24 present his claim in earlier proceedings or comply with the statutory requirements. See Hogan
25 v. Warden, 109 Nev. 952, 959-60, 860 P.2d 710, 715-16 (1993); Phelps v. Nevada Dep't of
26 Prisons, 104 Nev. 656, 659, 764 P.2d 1303, 1305 (1988).

27 "To establish good cause, appellants must show that an impediment external to the
28 defense prevented their compliance with the applicable procedural rule." Clem v. State, 119
Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119 Nev.
248, 251, 71 P.3d 503, 506 (2003); Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537
(2001). Such an external impediment could be "that the factual or legal basis for a claim was
not reasonably available to counsel, or that 'some interference by officials' made compliance
impracticable." Hathaway, 74 P.3d at 506 (quoting Murray v. Carrier, 477 U.S. 478, 488, 106

1 S.Ct. 2639, 2645 (1986)); see also Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing Harris v.
2 Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)). Any delay in filing of the
3 petition must not be the fault of the petitioner. NRS 34.726(1)(a).

4 The Nevada Supreme Court has clarified that, “appellants cannot attempt to
5 manufacture good cause[.]” Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there
6 must be a “substantial reason; one that affords a legal excuse.” Hathaway, 119 Nev. at 251,
7 71 P.3d at 506; (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).
8 Excuses such as the lack of assistance of counsel when preparing a petition, as well as the
9 failure of trial counsel to forward a copy of the file to a petitioner have been found not to
10 constitute good cause. See Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute
11 on other grounds as recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004);
12 Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

13 Additionally, in order to demonstrate prejudice to overcome the procedural bars, a
14 defendant must show “not merely that the errors of [the proceeding] created possibility of
15 prejudice, but that they worked to his actual and substantial disadvantage, in affecting the state
16 proceedings with error of constitutional dimensions.” Hogan v Warden, 109 Nev. 952, 960,
17 860 P.2d 710, 716 (1993) (internal quotation omitted); Little v. Warden, 117 Nev. 845, 853,
18 34 P.3d 540, 545.

19 This Court finds that Defendant has not demonstrated good cause for failing to file his
20 Petition in a timely manner. Defendant’s only attempt to show good cause is his contention
21 that this Court find that ineffective assistance of post-conviction counsel amounts to good
22 cause to overcome the defaulted nature of the instant petition. See Argument section of
23 Defendant’s Reply in Support of Petition, p. 6, 8. However, this claim is misguided. The
24 Nevada Supreme Court has plainly held that, in Nevada, the ineffectiveness of post-conviction
25 counsel does not constitute good cause under NRS 34.726 and NRS 34.810. Brown v.
26 McDaniel, 130 Nev. ___, ___, 331 P.3d 867,869 (2014).

27 Defendant makes no other attempt to establish good cause, but claims that under
28 Mitchell v. State, 122 Nev. at 1274, 149 P.3d at 33, Defendant does not need to show good

1 cause to overcome the time bar if a showing of constitutional violation which resulted in the
2 conviction of one who is actually innocent is made. Defendant offers a statement that malice
3 is an essential element of "murder," and that every element of an offense charged must be in
4 the jury instructions, yet no reference to the record, nor further argument is made in support
5 of the claim. Thus, Defendant has failed to overcome the procedural bars applicable to his
6 untimely Petition. Accordingly, this Court finds the Petition is time barred, pursuant to NRS
7 34.726(1), and good cause has not been shown.

8 **III. The Defendant is Not Entitled to an Evidentiary Hearing**

9 Defendant is not entitled to an evidentiary hearing in this matter. NRS 34.770
10 determines when a defendant is entitled to an evidentiary hearing. It reads:

- 11 1. The judge or justice, upon review of the return, answer and
12 all supporting documents which are filed, shall determine whether
13 an evidentiary hearing is required. A petitioner must not be
14 discharged or committed to the custody of a person other than the
15 respondent unless an evidentiary hearing is held.
- 16 2. If the judge or justice determines that the petitioner is not
entitled to relief and an evidentiary hearing is not required, he shall
dismiss the petition without a hearing.
3. If the judge or justice determines that an evidentiary
hearing is required, he shall grant the writ and shall set a date for
the hearing.

17 The Nevada Supreme Court has held that if a petition can be resolved without
18 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev.
19 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A
20 defendant is entitled to an Evidentiary Hearing if his petition is supported by specific factual
21 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled
22 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; See also Hargrove v. State, 100
23 Nev. 498, 503, 686 P.2d 222, 225 (1984) (1984) (holding that "[a] defendant seeking post-
24 conviction relief is not entitled to an Evidentiary Hearing on factual allegations belied or
25 repelled by the record"). "A claim is 'belied' when it is contradicted or proven to be false by
26 the record as it existed at the time the claim was made." Mann, 118 Nev. at 354, 46 P.3d at
27 1230 (2002).

28 //

1 This Court orders Defendant's request for an Evidentiary Hearing be denied because
2 there is a jurisdictional bar on this particular matter.

3 **ORDER**

4 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief
5 and Request for Evidentiary Hearing shall be, and are, hereby denied.

6 DATED this 1 day of September, 2015.

7
8 
DISTRICT JUDGE
9 JS

10 STEVEN B. WOLFSON
11 Clark County District Attorney
12 Nevada Bar #001565

13 BY 

CHRISTOPHER LALLI
14 Assistant Clark County District Attorney
15 Nevada Bar #005398

16 **CERTIFICATE OF SERVICE**

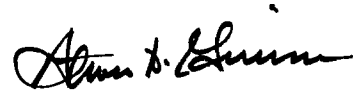
17 I certify that on the 25th day of September, 2015, I e-mailed a copy of the foregoing
18 proposed Findings of Fact, Conclusions of Law, and Order to:

19
20 MATTHEW D. CARLING, Esq.
21 cedarlegal@gmail.com

22 BY 

R. JOHNSON
23 Secretary for the District Attorney's Office
24
25
26
27

28 NO/CL/rj/M-1



CLERK OF THE COURT

NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

BRIAN K. O'KEEFE,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: 08C250630

Dept No: XVII

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW AND
ORDER**

PLEASE TAKE NOTICE that on October 2, 2015, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on October 6, 2015.

STEVEN D. GRIERSON, CLERK OF THE COURT



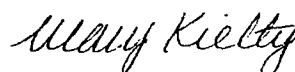
Mary Kielty, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 6 day of October 2015, I placed a copy of this Notice of Entry in:

☒ The bin(s) located in the Regional Justice Center of:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:
Brian K. O'Keefe # 90244 Matthew D. Carling, Esq.
1200 Prison Road 1100 S. Tenth Street
Lovelock, NV 89419 Las Vegas, NV 89101



Mary Kielty, Deputy Clerk

FCL
STEVEN B. WOLFSON
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200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
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22 Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

23 The one-year time limit for preparing petitions for post-conviction relief under NRS
24 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002),
25 the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late despite
26 evidence presented by the defendant that he purchased postage through the prison and mailed
27 the Notice within the one-year time limit.

28 This Court finds that the Notice of Remittitur was issued from Defendant’s timely direct
appeal on July 23, 2013. Thus, the one-year time bar began to run from that date. Defendant’s
Post-Conviction Writ of Habeas Corpus was filed on September 15, 2014, over one year after

1 the date of Remittitur and in excess of the one-year time frame. Thus, Defendant's claim is
2 denied as it is untimely in violation of NRS 34.762(1).

3 **II. Defendant Has Not Shown Good Cause to Overcome the Procedural Bars**

4 Defendant's Reply in Support of the Supplemental Petition, includes the appropriate
5 provision under NRS 34.726 for "good cause," and Defendant re-states the claims that
6 consideration of his Pro Per Motion for Stay of the Remittitur would make his Petition timely.

7 NRS 34.726(1) provides:

8 Unless there is good cause shown for delay, a petition that
9 challenges the validity of a judgment or sentence must be filed
10 within 1 year of the entry of the judgment of conviction or, **if an
11 appeal has been taken from the judgment, within 1 year after
12 the Supreme Court issues its remittitur.** For the purposes of this
13 subsection, **good cause for delay exists if the petitioner
14 demonstrates to the satisfaction of the court:**

- 15 (a) That the delay is not the fault of the petitioner;
16 and
17 (b) That dismissal of the petition as untimely will
18 unduly prejudice the petitioner.

19 (emphasis added). As Defendant's Petition was filed more than a year after Remittitur from
20 his direct appeal issued on July 23, 2013, his Petition is untimely and must be dismissed absent
21 a showing of good cause.

22 To avoid procedural default under NRS 34.726 and NRS 34.810, a defendant has the
23 burden of pleading and proving specific facts that demonstrate good cause for his failure to
24 present his claim in earlier proceedings or comply with the statutory requirements. See Hogan
25 v. Warden, 109 Nev. 952, 959-60, 860 P.2d 710, 715-16 (1993); Phelps v. Nevada Dep't of
26 Prisons, 104 Nev. 656, 659, 764 P.2d 1303, 1305 (1988).

27 "To establish good cause, appellants must show that an impediment external to the
28 defense prevented their compliance with the applicable procedural rule." Clem v. State, 119
Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119 Nev.
248, 251, 71 P.3d 503, 506 (2003); Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537
(2001). Such an external impediment could be "that the factual or legal basis for a claim was
not reasonably available to counsel, or that 'some interference by officials' made compliance
impracticable." Hathaway, 74 P.3d at 506 (quoting Murray v. Carrier, 477 U.S. 478, 488, 106

1 S.Ct. 2639, 2645 (1986)); see also Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing Harris v.
2 Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)). Any delay in filing of the
3 petition must not be the fault of the petitioner. NRS 34.726(1)(a).

4 The Nevada Supreme Court has clarified that, “appellants cannot attempt to
5 manufacture good cause[.]” Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there
6 must be a “substantial reason; one that affords a legal excuse.” Hathaway, 119 Nev. at 251,
7 71 P.3d at 506; (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).
8 Excuses such as the lack of assistance of counsel when preparing a petition, as well as the
9 failure of trial counsel to forward a copy of the file to a petitioner have been found not to
10 constitute good cause. See Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute
11 on other grounds as recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004);
12 Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

13 Additionally, in order to demonstrate prejudice to overcome the procedural bars, a
14 defendant must show “not merely that the errors of [the proceeding] created possibility of
15 prejudice, but that they worked to his actual and substantial disadvantage, in affecting the state
16 proceedings with error of constitutional dimensions.” Hogan v Warden, 109 Nev. 952, 960,
17 860 P.2d 710, 716 (1993) (internal quotation omitted); Little v. Warden, 117 Nev. 845, 853,
18 34 P.3d 540, 545.

19 This Court finds that Defendant has not demonstrated good cause for failing to file his
20 Petition in a timely manner. Defendant’s only attempt to show good cause is his contention
21 that this Court find that ineffective assistance of post-conviction counsel amounts to good
22 cause to overcome the defaulted nature of the instant petition. See Argument section of
23 Defendant’s Reply in Support of Petition, p. 6, 8. However, this claim is misguided. The
24 Nevada Supreme Court has plainly held that, in Nevada, the ineffectiveness of post-conviction
25 counsel does not constitute good cause under NRS 34.726 and NRS 34.810. Brown v.
26 McDaniel, 130 Nev. ___, ___, 331 P.3d 867,869 (2014).

27 Defendant makes no other attempt to establish good cause, but claims that under
28 Mitchell v. State, 122 Nev. at 1274, 149 P.3d at 33, Defendant does not need to show good

1 cause to overcome the time bar if a showing of constitutional violation which resulted in the
2 conviction of one who is actually innocent is made. Defendant offers is a statement that malice
3 is an essential element of "murder," and that every element of an offense charged must be in
4 the jury instructions, yet no reference to the record, nor further argument is made in support
5 of the claim. Thus, Defendant has failed to overcome the procedural bars applicable to his
6 untimely Petition. Accordingly, this Court finds the Petition is time barred, pursuant to NRS
7 34.726(1), and good cause has not been shown.

8 **III. The Defendant is Not Entitled to an Evidentiary Hearing**

9 Defendant is not entitled to an evidentiary hearing in this matter. NRS 34.770
10 determines when a defendant is entitled to an evidentiary hearing. It reads:

- 11 1. The judge or justice, upon review of the return, answer and
12 all supporting documents which are filed, shall determine whether
13 an evidentiary hearing is required. A petitioner must not be
14 discharged or committed to the custody of a person other than the
15 respondent unless an evidentiary hearing is held.
- 16 2. If the judge or justice determines that the petitioner is not
entitled to relief and an evidentiary hearing is not required, he shall
dismiss the petition without a hearing.
3. If the judge or justice determines that an evidentiary
hearing is required, he shall grant the writ and shall set a date for
the hearing.

17 The Nevada Supreme Court has held that if a petition can be resolved without
18 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev.
19 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A
20 defendant is entitled to an Evidentiary Hearing if his petition is supported by specific factual
21 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled
22 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; See also Hargrove v. State, 100
23 Nev. 498, 503, 686 P.2d 222, 225 (1984) (1984) (holding that "[a] defendant seeking post-
24 conviction relief is not entitled to an Evidentiary Hearing on factual allegations belied or
25 repelled by the record"). "A claim is 'belied' when it is contradicted or proven to be false by
26 the record as it existed at the time the claim was made." Mann, 118 Nev. at 354, 46 P.3d at
27 1230 (2002).

28 //

1 This Court orders Defendant's request for an Evidentiary Hearing be denied because
2 there is a jurisdictional bar on this particular matter.

3 **ORDER**

4 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief
5 and Request for Evidentiary Hearing shall be, and are, hereby denied.

6 DATED this 1 day of September, 2015.

7
8 
DISTRICT JUDGE
9 JS

10 STEVEN B. WOLFSON
11 Clark County District Attorney
12 Nevada Bar #001565

13 BY 

CHRISTOPHER LALLI
14 Assistant Clark County District Attorney
15 Nevada Bar #005398

16 **CERTIFICATE OF SERVICE**

17 I certify that on the 25th day of September, 2015, I e-mailed a copy of the foregoing
18 proposed Findings of Fact, Conclusions of Law, and Order to:

19
20 MATTHEW D. CARLING, Esq.
21 cedarlegal@gmail.com

22 BY 

R. JOHNSON
23 Secretary for the District Attorney's Office
24
25
26
27

28 NO/CL/rj/M-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 06, 2009**

08C250630

The State of Nevada vs Brian K O'Keefe

January 06, 2009**9:00 AM****Initial Arraignment**

**INITIAL
ARRAIGNMENT
Court Clerk: Nora
Pena/np Relief
Clerk: Damedia Scott
Reporter/Recorder:
Kiara Schmidt Heard
By: Kevin Williams**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

O'Keefe, Brian K

Defendant

Pace, Barter G.

Attorney

Pike, Randall H.

Attorney

Schieck, David M.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- Mr. Schieck asked to let the District Court 17 set the trial date. COURT ORDERED, matter set for entry of plea and trial date.

CUSTODY

1/20/09 8:00 AM ENTRY OF PLEA/TRIAL SETTING - DEPT 17

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 20, 2009**

08C250630

The State of Nevada vs Brian K O'Keefe

January 20, 2009**8:00 AM****Entry of Plea**

**ENTRY OF
PLEA/TRIAL
SETTING Court
Clerk: Kristen Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

O'Keefe, Brian K

Defendant

Palm, Patricia A.

Attorney

Pike, Randall H.

Attorney

Smith, Phillip N.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- DEFT. OKEEFE ARRAIGNED, PLED NOT GUILTY and INVOKED THE 60-DAY RULE. Mr. Smith stated the State is going to INVOKE the 60 day rule as well. COURT ORDERED, matter set for trial. CUSTODY

3/10/09 8:00 AM CALENDAR CALL

3/16/09 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 10, 2009**

08C250630

The State of Nevada vs Brian K O'Keefe

February 10, 2009**8:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 2-10-09
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

O'Keefe, Brian K

Defendant

Palm, Patricia A.

Attorney

Pike, Randall H.

Attorney

Smith, Phillip N.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS...STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS

Arguments by counsel. COURT ORDERED, Deft's Petition for Writ of Habeas Corpus DENIED; State's Motion to Admit Evidence of Other Crimes will be set for a Petrocelli Hearing. Amended Information FILED IN OPEN COURT.

NDC

2/26/09 10:00 AM EVIDENTIARY HEARING: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 2009

08C250630

The State of Nevada vs Brian K O'Keefe

February 26, 2009

10:00 AM

Evidentiary Hearing

**EVIDENTIARY
HRG: STATE'S MTN
TO ADMIT
EVIDENCE OF
OTHER CRIMES
WRONGS OR ACTS
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Villani,
Michael**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 10, 2009**

08C250630

The State of Nevada vs Brian K O'Keefe

March 10, 2009**8:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 3-10-09
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- CALENDAR CALL...DEFT'S MOTION TO REQUIRE COURT TO ADVISE JURORS AS TO MANDATORY SENTENCES

Counsel stated they are ready to proceed to trial which will take 3-4 days. Mr. Pike stated that he has 5 witnesses in addition to the State's witnesses and one is out of state; further, has a signed Stipulation and Order Waiving the Penalty Hearing but will withhold filing it until after the jury is seated. Arguments by counsel regarding Deft's Motion. COURT ORDERED, Deft's Motion to Require Court to Advise Juror's as to Mandatory Sentences DENIED; Trial date STANDS.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 16, 2009**

08C250630

The State of Nevada vs Brian K O'Keefe

March 16, 2009**9:30 AM****All Pending Motions**

**ALL PENDING
MOTIONS 3-16-09
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Graham, Stephanie

Attorney

O'Keefe, Brian K

Defendant

Palm, Patricia A.

Attorney

Pike, Randall H.

Attorney

Smith, Phillip N.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- EVIDENTIARY HEARING: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS...TRIAL BY JURY

Arguments by counsel. COURT ORDERED, Motion GRANTED. Jury and 2 alternates selected and sworn. Court Clerk read the Amended Information and stated the deft's plea thereto. Opening statements by counsel. Testimony and exhibits presented (See worksheets). COURT ORDERED, matter CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 17, 2009**

08C250630

The State of Nevada vs Brian K O'Keefe

March 17, 2009**9:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Kristen
Brown/A.M. Relief
Clerk: Shelly
Landwehr/P.M.
Reporter/Recorder:
Michelle Ramsey
Heard By: Villani,
Michael

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Graham, Stephanie	Attorney
	O'Keefe, Brian K	Defendant
	Palm, Patricia A.	Attorney
	Pike, Randall H.	Attorney
	Smith, Phillip N.	Attorney
	Special Public Defender	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Court advised counsel Juror #12's apartment flooded and will not be able to return as he has to be present to solve the problem.
 JURY PRESENT: Testimony and exhibits presented (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm moved for a mistrial and dismissal. Arguments by counsel. COURT ORDERED, Motion DENIED.
 JURY PRESENT: Testimony and exhibits presented (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm moved for a mistrial and dismissal regarding testimony from Officer Hutchinson. Arguments by counsel. COURT ORDERED, Motion DENIED, Court finds statement was not a Discovery violation, it was memorialized, not undue prejudice.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 18, 2009**

08C250630

The State of Nevada vs Brian K O'Keefe

March 18, 2009**9:45 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Kristen Brown
Reporter/Recorder: Michelle Ramsey
Heard By: Villani, Michael

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Graham, Stephanie	Attorney
O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel. Ms. Palm moved for a mistrial and dismissal. Further argument by counsel. COURT ORDERED, Motion DENIED but will allow the defense to call the officer's back and question them about the report.

JURY PRESENT: Testimony and exhibits presented (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel regarding the note by witness Hutchison. COURT ORDERED, the report is not coming in at this point.

JURY PRESENT: Testimony and exhibits presented (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Court advised counsel that it observed a few of the jurors speaking with one of the witnesses. Jurors 3, 6 & 7 questioned.

JURY PRESENT: Testimony and exhibits presented (See worksheets). COURT ORDERED, matter CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 19, 2009**

08C250630

The State of Nevada vs Brian K O'Keefe

March 19, 2009**9:00 AM****Jury Trial****TRIAL BY JURY****Court Clerk: Kristen
Brown****Reporter/Recorder:****Michelle Ramsey****Heard By: Villani,
Michael****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Graham, Stephanie

Attorney

O'Keefe, Brian K

Defendant

Palm, Patricia A.

Attorney

Pike, Randall H.

Attorney

Smith, Phillip N.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- JURY PRESENT: State rests. Testimony and exhibits presented (See worksheets). COURT ORDERED, matter CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY: Court advised the Deft. of his rights not to testify.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 20, 2009**

08C250630

The State of Nevada vs Brian K O'Keefe

March 20, 2009**9:00 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Kristen Brown
Reporter/Recorder: Michelle Ramsey
Heard By: Michael Villani

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Graham, Stephanie	Attorney
	O'Keefe, Brian K	Defendant
	Palm, Patricia A.	Attorney
	Pike, Randall H.	Attorney
	Smith, Phillip N.	Attorney
	Special Public Defender	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel regarding the victims medical records. Court stated its findings and ORDERED, Motion to Allow the Medical Records be Introduced DENIED but will allow testimony that the victim attempted to commit suicide two days prior to the incident.

JURY PRESENT: Testimony and exhibits presented (See worksheets). Defense rests.

OUTSIDE THE PRESENCE OF THE JURY: Instructions settled on the record.

JURY PRESENT: Court instructed the jury. Closing arguments by counsel. At the hour of 4:10 pm, the jury retired to deliberate. At the hour of 7:15 pm, the jury returned with a VERDICT of GUILTY of SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON. Court THANKED and

08C250630

EXCUSED the jury. COURT ORDERED, Deft. REMANDED TO CUSTODY and matter referred to Parole and Probation and set for sentencing.

CUSTODY

5/05/09 8:00 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 07, 2009**

08C250630

The State of Nevada vs Brian K O'Keefe

April 07, 2009**8:00 AM****Motion**

**DEFT'S MTN TO
SETTLE RECORD/13
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

O'Keefe, Brian K

Defendant

Palm, Patricia A.

Attorney

Pike, Randall H.

Attorney

Smith, Phillip N.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- Arguments by counsel. Court stated the record is clear.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 05, 2009

08C250630

The State of Nevada vs Brian K O'Keefe

May 05, 2009

8:00 AM

Sentencing

SENTENCING**Court Clerk: Kristen****Brown Relief Clerk:****Damedia Scott/ds****Reporter/Recorder:****Michelle Ramsey****Heard By: Michael****Villani****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

O'Keefe, Brian K

Defendant

Palm, Patricia A.

Attorney

Pike, Randall H.

Attorney

Smith, Phillip N.

Attorney

JOURNAL ENTRIES

- Argument by State. Statements by Defendant and counsel. Ms. Palm requested corrections to the original Pre-Sentence Investigation Report. COURT ORDERED, Pre-Sentence Investigation Report amended by interlineation and incorporated into the court file copy as follows: Page 1, 20 years; Page 4, Juvenile Offense; Page 7, deleted sentence regarding a knife; Page 8, Section 9, Paragraph 2.

COURT NOTED, those items were not considered by this Court.

DEFT. O'KEEFE ADJUDGED GUILTY of COUNT 1 - 2ND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, and a \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft.

SENTENCED ON COUNT 1 - 2ND DEGREE MURDER (F) to a MINIMUM of TEN (10) YEARS and a MAXIMUM of TWENTY-FIVE (25) YEARS in the Nevada Department of Corrections (NDC), plus a

CONSECUTIVE MINIMUM OF NINETY-SIX (96) MONTHS and a MAXIMUM of TWO-HUNDRED FORTY (240) MONTHS in the Nevada Department of Corrections (NDC) for the USE OF A DEADLY WEAPON, to run CONSECUTIVE TO COUNT 1, with 181 DAYS credit for time served. BOND, if any, EXONERATED.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 29, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

April 29, 2010**8:15 AM****Status Check**

**STATUS CHECK:
SUPREME COURT
REMAND/ RESET
TRIAL Court Clerk:
Carol Donahoo
Reporter/Recorder:
Michelle Ramsey
Heard By: Villani,
Michael**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Hendricks, Craig L.	Attorney
	Schieck, David M.	Attorney
	Special Public Defender	Attorney

JOURNAL ENTRIES

- Deft. O'Keefe incarcerated in the Nevada Department of Corrections (NDC) and not present. Mr. Schieck advised the Remittitur has not been issued by the Supreme Court yet; further, Randall Pike, SPD, will be handling this matter and he is still recovering from surgery. Mr. Schieck requested the matter be CONTINUED. COURT SO ORDERED.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 20, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

May 20, 2010**8:15 AM****Status Check**

**STATUS CHECK:
SUPREME COURT
REMAND/ RESET
TRIAL Court Clerk:
Carol Donahoo
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Graham, Stephanie

Attorney

Jackson, Alzora B.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- Deft. O'Keefe incarcerated in the Nevada Department of Corrections (NDC) and not present. Court Services advised Deft. was not transported; Ms. Jackson advised Deft. should really be present. Therefore, COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 06/10/10 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 10, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

June 10, 2010**8:15 AM****All Pending Motions**

**ALL PENDING
MOTIONS (6/10/10)
Relief Clerk: Susan
Jovanovich/sj
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Lavell, Maria

Attorney

O'Keefe, Brian K

Defendant

Pike, Randall H.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL...MOTION FOR JUDICIAL RULING

Michael Hyte, Deputy Special Public Defender (Bar # 10088), also present.

Ms. Lavell advised she was just assigned onto the case this morning. Colloquy regarding additional subpoenas to be served for additional medical records, and HIPPA protection guidelines. Arguments by Mr. Pike. Matter submitted by State. COURT ORDERED, Motion GRANTED. Court advised counsel to have redactions of sensitive information done on medical records. Ms. Lavell requested an in-camera view be done on these records upon being received by counsel. Colloquy regarding resetting trial date. Statements by Deft. MATTER TRAILED for Court to review current trial schedule. RECALLED. Mr. Pike advised this matter is overflow eligible, and requested additional

time to prepare pre-trial briefs. COURT SO ORDERED. FURTHER, trial date SET. At request of counsel, COURT ORDERED, Deft. REMANDED into CUSTODY on this matter.
CUSTODY

8-17-10 8:15 AM CALENDAR CALL

8-23-10 10:00 AM TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 12, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

August 12, 2010**8:15 AM****All Pending Motions****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE TO SUPPRESS HIS STATEMENTS TO POLICE OR, ALTERNATIVELY, TO PRECLUDE THE STATE FROM INTRODUCING PORTIONS OF HIS INTERROGATION . . . NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE TO ADMIT EVIDENCE SHOWING LVMPD HOMICIDE DETECTIVES HAVE PRESERVED BLOOD/BREATH ALCOHOL EVIDENCE IN ANOTHER RECENT CASE

Christopher Lalli, Asst DA, present on behalf of the State and Patricia Palm. Esq., present on behalf of Deft. O'Keefe, who is also present.

At counsels request, COURT ORDERED, the two (2) above-named Motions shall be CONTINUED to August 19, 2010.

NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE FOR DISCOVERY: Arguments by counsel. COURT ORDERED, Motion GRANTED IN PART; the last known addresses of any lay witnesses and any information that would help identify any Felony convictions for those witnesses shall be provided.

NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE FOR EVIDENTIARY HEARING ON WHETHER THE STATE AND CCDC HAVE COMPLIED WITH THEIR OBLIGATIONS WITH RESPECT TO THE RECORDING OF A JAIL VISIT BETWEEN O KEEFE AND STATE WITNESS

CHERYL MORRIS: Ms. Palm advised this matter is resolved and, therefore, stated she would WITHDRAW said Motion. COURT ORDERED, Motion WITHDRAWN.

Colloquy regarding the trial. Counsel expect the trial will take five (5) days.

Ms. Palm to prepare the Order approved as to form and content by Mr. Lalli.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 17, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

August 17, 2010**8:15 AM****All Pending Motions****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carole D'Aloia**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

Lalli, Christopher J
O'Keefe, Brian K
Palm, Patricia A.
State of Nevada

Attorney
Defendant
Attorney
Plaintiff

JOURNAL ENTRIES

- MOTION BY DEFENDANT O'KEEFE TO ADMIT EVIDENCE PERTAINING TO THE ALLEGED VICTIM'S MENTAL HEALTH CONDITION AND HISTORY, INCLUDING PRIOR SUICIDE ATTEMPTS, ANGER OUTBURSTS, ANGER MANAGEMENT THERAPY, SELF-MUTILIZATION AND ERRATIC BEHAVIOR...MOTION BY DEFENDANT O'KEEFE TO PRECLUDE THE STATE FROM INTRODUCTION AT TRIAL OTHER ACT OR CHARACTER EVIDENCE AND OTHER EVIDENCE WHICH IS UNFAIRLY PREJUDICIAL OR WOULD VIOLATE HIS CONSTITUTIONAL RIGHTS...MOTION BY DEFENDANT O'KEEFE TO SUPPRESS HIS STATEMENTS TO POLICE OR ALTERNATIVELY TO PRECLUDE THE STATE FROM INTRODUCING PORTIONS OF HIS INTERROGATION...MOTION BY DEFENDANT OKEEFE TO ADMIT EVIDENCE SHOWING LVMPD HOMICIDE DETECTIVES HAVE PRESERVED BLOOD/BREATH ALCOHOL EVIDENCE IN ANOTHER RECENT CASE

As to the first three (3) motions on the calendar, Court advised that it did not receive courtesy copies and, therefore, is not ready to make a ruling and, ORDERED, matter CONTINUED to Thursday. Court directed counsel to provide courtesy copies of all their pleadings to Court because although they have been filed, they have not been imaged and, therefore, are not accessible to the Court. As to Defendant's motion to admit evidence showing LVMPD homicide detectives have preserved

blood/breath alcohol evidence in another recent case, following arguments by counsel, COURT ORDERED, motion DENIED, noting its' original ruling stands. Mr. Lalli advised

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 19, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

August 19, 2010**8:15 AM****All Pending Motions****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Conference at the Bench. MOTION BY DEFT. O'KEEFE TO PRECLUDE THE STATE FROM INTRODUCTION AT TRIAL OTHER ACT OR CHARACTER EVIDENCE AND OTHER EVIDENCE WHICH IS UNFAIRLY PREJUDICIAL OR WOULD VIOLATE HIS CONSTITUTIONAL RIGHTS: This Motion has nine parts and is GRANTED in part and DENIED in part as follows:

a. The State should be precluded from introducing evidence showing that O'Keefe had claimed to Cheryl Morris that he could kill anyone with a knife and had demonstrated how he would kill with knives - Arguments by counsel. Court noted that it previously ruled that the statement is admissible and it is relevant. Therefore, COURT ORDERED, Motion DENIED.

b. The State should be limited to presenting the Judgment of Conviction for Felony Domestic Violence with the redaction to omit the reference to a concurrent sentence - Arguments by counsel. COURT ORDERED, Motion GRANTED.

c. The State should be precluded from introducing any evidence of a sexual assault allegation related to O'Keefe's prior burglary conviction - Arguments by counsel. Mr. Lalli advised the State does not intend to admit this evidence unless the door is opened. COURT ORDERED, Motion GRANTED.

d. The State should be precluded from introducing the term "Sexual Assault Kit" with reference to the DNA collection here or referring to any sexual assault - Arguments by counsel. Mr. Palm advised the parties have agreed to call the Sexual Assault Kit a DNA Collection Kit. COURT ORDERED, Motion GRANTED.

e. The State should be precluded from introducing photographs of Whitmarsh's bruises, which cannot be linked to the time of the incident here - Arguments by counsel. COURT ORDERED, Motion DENIED.

f. The State should be precluded from introducing any reference to racial slurs allegedly made by O'Keefe - Arguments by counsel. COURT ORDERED, Motion GRANTED.

g. The State should be precluded from introducing the hearsay statement of Charles Tolliver that O'Keefe killed Whitmarsh - Arguments by counsel. COURT ORDERED, Motion GRANTED; the statement "Baby, he done killed that Girl" shall be excluded.

MOTION BY DEFT. O'KEEFE TO PRECLUDE EXPERT TESTIMONY: Ms. Palm advised this is related to letter "H" of the above-referenced Motion. COURT ORDERED, this issue will be CONTINUED as the Court would like to review the Case Law. FURTHER, letter "I" of the above-referenced Motion will also be CONTINUED.

MOTION BY DEFT. O'KEEFE TO SUPPRESS HIS STATEMENTS TO POLICE OR, ALTERNATIVELY, TO PRECLUDE THE STATE FROM INTRODUCING PORTIONS OF HIS INTERROGATION: COURT ORDERED, Motion CONTINUED.

Mr. Lalli requested leave of Court to file a Second Amended Information. There being no objection by Ms. Palm, COURT ORDERED, request GRANTED; Second Amended Information FILED IN OPEN COURT.

STATUS CHECK: AVAILABILITY OF DR. BENJAMIN FOR TRIAL: Ms. Palm presented a Motion by Deft. O'Keefe to Preclude Late Noticed Expert Testimony from Dr. Dutra, which was FILED IN OPEN COURT. Mr. Lalli advised that if they cannot get Dr. Benjamin here to testify, the State would like to call Dr. Dutra. Arguments by counsel. COURT FINDS, the State has exercised due diligence in trying to locate Dr. Benjamin in order to obtain her testimony at trial. Of paramount importance in this case is the analysis of the injuries, how they were sustained, and whether they were self-inflicted. Mr. Lalli advised he would continue to try and contact Dr. Benjamin but if the State cannot locate her, the State would like to call Dr. Dutra.

MOTION BY DEFT. O'KEEFE TO ADMIT EVIDENCE PERTAINING TO THE ALLEGED VICTIM'S MENTAL HEALTH CONDITION AND HISTORY, INCLUDING PRIOR SUICIDE ATTEMPTS, ANGER OUTBURSTS, ANGER MANAGEMENT THERAPY, SELF-MUTILATION, AND ERRATIC BEHAVIOR: Arguments by counsel. Court directed counsel to go through the records to see if there

are any agreements. Counsel to provide the Court with the records they agree upon as well as the records they disagree on. The Court will then rule on said records during the trial.

CUSTODY

CONTINUED TO: 08/20/10 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 20, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

August 20, 2010**8:15 AM****Motion**

**Motion By Defendant
O'Keefe To Suppress
His Statements To
Police Or
Alternatively To
Preclude The State
From Introducing
Portions Of His
Interrogation**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Colloquy regarding the statement made by Deft. to Officer Ballejos. Deft. was in custody but had not been given the Miranda warning. COURT FINDS, that due to the nature of the statements and what the Police Officer knew at the time, the statements do not fall within the public safety exception. Therefore, COURT ORDERED, the statement is excluded.

Ms. Palm is requesting that Deft.'s statement made during the recorded interrogation by homicide detectives be stricken in its entirety. COURT FINDS, that even though Deft. was intoxicated, under the totality of the circumstances, his statement was freely and voluntarily given. Court and counsel proceed and discuss the particular portions of Deft.'s statement, which must be suppressed. The

ruling as to each specific statement is as stated on the record in open court.

Ms. Palm advised there are a few other issues that need to be resolved. With regard to Detective Wildemann, Mr. Lalli advised the State is withdrawing the Notice of Expert; however, he will still be testifying. The Detective will say that in homicides he has investigated, it is not uncommon for the stabber to cut himself; colloquy. Court will allow the testimony but the Detective cannot say "and that is what happened here."

With regard to any reference to the prior trial, counsel have stipulated to using the words, "prior testimony" or "prior proceedings."

Court noted Jury Trial will begin Monday, August 23, 2010, at 10:00 a.m.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 23, 2010

08C250630

The State of Nevada vs Brian K O'Keefe

August 23, 2010

10:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

10:21 a.m. Jury Trial commenced.

Court and counsel begin Voir Dire examination of the prospective Jurors.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Court canvassed Juror No. 0229 for the reasons stated on the record.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continued.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Ms. Palm is seeking to admit evidence pertaining to the victim's Mental Health condition and history. Colloquy regarding the excerpts from the victim's medical records. Excerpts from Medical Records of Victim marked for identification and ADMITTED as Court's Exhibit 1. Deft.'s Proposed Jury Instructions FILED IN OPEN COURT.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continued.

5:35 a.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

08C250630

CUSTODY

CONTINUED TO: 08/24/10 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 24, 2010

08C250630

The State of Nevada vs Brian K O'Keefe

August 24, 2010

10:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

10:30 a.m. Jury Trial resumed. Court and counsel continue Voir Dire examination of the prospective Jurors.

5:00 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

CUSTODY

CONTINUED TO: 08/25/10 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 25, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

August 25, 2010**9:30 AM****Jury Trial****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dept DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

9:43 a.m. Jury Trial commenced. Court and counsel continue Voir Dire examination of the prospective Jurors. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Colloquy regarding redaction issues with regard to the video of Deft.'s interview with the police.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continues.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Court canvassed Prospective Juror No. 0210. For the reasons stated on the record, COURT ORDERED, Prospective Juror No. 0210 shall be EXCUSED.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continues.

Jury and two (2) alternates selected and sworn. Clerk read the Second Amended Information to the Jury and stated the Deft.'s plea thereto. Opening statements by Mr. Lalli and Ms. Palm. Testimony and exhibits presented (see worksheets).

5:35 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

08C250630

CUSTODY

CONTINUED TO: 08/26/10 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 26, 2010

08C250630

The State of Nevada vs Brian K O'Keefe

August 26, 2010

10:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dept DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

10:00 a.m. Jury Trial resumed.

OUTSIDE THE PRESENCE OF THE JURY: Court and counsel discuss the issues surrounding the video of Deft.'s interview with the police and the redactions made by the State. Ms. Palm would like to have certain information added back to the disc.

JURY PRESENT; Testimony and exhibits presented (see worksheets).

5:30 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

CUSTODY

CONTINUED TO: 08/27/10 11:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 27, 2010

08C250630

The State of Nevada vs Brian K O'Keefe

August 27, 2010

11:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

11:45 a.m. Jury Trial resumed.

Testimony and evidence presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: State is objecting to a demonstration by the witness, George Schiro, and Ms. Palm as to how the wound to the victim may have been inflicted. COURT ORDERED, the demonstration may continue.

JURY PRESENT: Testimony and evidence presented (see worksheets).

6:30 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

CONTINUED TO: 08/30/10 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 30, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

August 30, 2010**9:30 AM****Jury Trial****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

9:43 a.m. Jury Trial resumed.

OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm is requesting a limited Jury Instruction regarding the testimony by the witness, Cheryl Morris, where she mentioned the killing of a person by cutting them in the sternum area. The medical records of the victim were also discussed. The parties have reached an agreement with regard to the said records and a stipulation will be read to the Jury by the Court. Stipulation marked as Court's Exhibit 14 and ADMITTED.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Juror No. 2 requested to address the Court regarding a procedural issue. The Juror presented his question to the Court and it was answered by the Court and counsel.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

5:30 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

08C250630

CUSTODY

CONTINUED TO: 08/31/10 9:45 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 31, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

August 31, 2010**9:45 AM****Jury Trial****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

10:00 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: Court and counsel questions Juror No. 6 as to what she may have observed on the elevator when reporting to Court to resume the trial this morning. Court canvassed Deft. with regard to his right not to testify.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Jury Instructions and Verdict forms settled on the record.

JURY PRESENT: Court instructed the Jury. Closing arguments by Ms. Graham and Ms. Palm; rebuttal by Mr. Lalli.

OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm orally moved the Court for a mistrial. Arguments by counsel. COURT ORDERED, Motion DENIED; the totality of the circumstances do not warrant a mistrial at this time.

JURY PRESENT: At the hour of 5:45 p.m., the Jury retired to deliberate; however, due to the lateness of the hour, the Jury elected to go home and return in the morning to begin deliberations. COURT

08C250630

ORDERED, trial continued.

CUSTODY

CONTINUED TO: 09/01/10 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 01, 2010

08C250630

The State of Nevada vs Brian K O'Keefe

September 01, 2010 9:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- 9:00 a.m. Jury returned to deliberate.

At the hour of 3:45 p.m. the Jury presented a note with a question to the Court. Court held a telephonic conference with Christopher Lalli, Chf Dep DA, and Patricia Palm, Esq., regarding the note. An answer was provided to the Jury. The Question and Answer provided was marked for identification as Court's Exhibit 16 and ADMITTED.

At the hour of 4:55 p.m. the Jury presented another note to the Court indicating that they were still deadlocked. The Court again held a telephonic conference with counsel regarding the note. Court and counsel agreed to release the Jury for the evening with the understanding that they would return at 9:00 a.m., September 2, 2010, to continue deliberations. Court noted there is a possibility of an Allen Charge being given after further deliberations. The Note was marked for identification as Court's Exhibit 17 and ADMITTED.

Court thanked and excused the alternates and ORDERED, trial CONTINUED.

CUSTODY

CONTINUED TO: 09/02/10 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 02, 2010

08C250630

The State of Nevada vs Brian K O'Keefe

September 02, 2010 9:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- 9:30 a.m Jurors returned to continue deliberations.

At the hour of 10:15 p.m. the Jury presented a note to the Court indicating that they were still deadlocked. The Note was marked for identification as Court's Exhibit 18 and ADMITTED.

10:43 a.m. OUTSIDE THE PRESENCE OF THE JURY: Robert Daskas, Chf Dep DA, present on behalf of Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Court advised counsel of the notes it had received from the Jury.

JURY PRESENT: Court gave an Allen Charge to the Jury. At the hour of 10:55 a.m. the Jury returned to the Jury room to continue their deliberations.

At the hour of 11:38 a.m. the Jury indicated that they were still deadlocked. The Note was marked for identification as Court's Exhibit 20 and ADMITTED.

JURY PRESENT: Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Court noted the Jury is deadlocked at 10 to 2. It is fruitless to continue deliberations at this time. Therefore, COURT FINDS, that due to the hopeless deadlock of the Jury, it is a manifest necessity to declare a MISTRIAL. Court thanked and

08C250630

excused the Jury and ORDERED, matter set for status check; Deft. REMANDED to custody.

CUSTODY

09/14/10 8:15 AM STATUS CHECK: NEW TRIAL DATE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 14, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

September 14, 2010 8:15 AM**Status Check****New Trial Date****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is not present.

Motion to Withdraw FILED IN OPEN COURT. Conference at the Bench. Court directed the Court Clerk to contact Drew Christensen for appointment of counsel. Ms. Palm advised she has already been in contact with him; colloquy. COURT ORDERED, Motion to Withdraw GRANTED; Patricia Palm is APPOINTED as counsel of record on this case. COURT FURTHER ORDERED, matter set for status check. Court noted Ms. Palm has requested the trial transcripts.

CUSTODY**CONTINUED TO:** 09/16/10 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 16, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

September 16, 2010 8:15 AM Status Check**HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Melissa Benson**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES**

PRESENT:	Lalli, Christopher J	Attorney
	O'Keefe, Brian K	Defendant
	Palm, Patricia A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Upon inquiry, counsel noted today is only on to reset the trial. State did indicate Court had previously approved them to speak with Dr. Benjamin which they have not, but still reserve the right to do so. Colloquy regarding dates as Deft. did reserve his speedy trial rights. COURT ORDERED, trial RESET.

CUSTODY (NDC)

1/18/10 8:15 AM CALENDAR CALL

1/24/10 10:00 AM TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 28, 2010**

08C250630

The State of Nevada vs Brian K O'Keefe

September 28, 2010 8:15 AM**Motion****Notice of Motion and
Motion by Defendant
O'Keefe for a
Reasonable Bail****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

For the reasons stated on the record, Ms. Palm is requesting that bail be set for Deft. in a reasonable amount. Argument by Mr. Lalli. Court noted that Deft. was denied his right to a speedy trial due to scheduling issues so there was good cause for the delay. However, due to the nature of this case, this Court will not grant Deft. an O.R. Release but will instead set bail. COURT ORDERED, Bail set in the amount of \$500,000.00 with House Arrest (H.A.). If Deft. violates any portion of the H.A., he shall be immediately REMANDED until trial.

Mr. Lalli to prepare the Order.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 13, 2011**

08C250630

The State of Nevada vs Brian K O'Keefe

January 13, 2011**8:15 AM****Motion**

**Notice of Motion and
Motion by Defendant
O'Keefe to Preclude
the State from
Introducing at Trial
Improper Evidence
and Argument**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Ms. Palm advised there are five different arguments.

1. State should be precluded from introducing evidence of argument to show that the alleged victim, Victoria Whitmarsh, testified against O'Keefe in the prior felony domestic battery case (C207835): Arguments by counsel. COURT ORDERED, Motion DENIED as to this issue.

2. Based upon the most recent and much expanded testimony of Cheryl Morris and argument relating thereto, this Court should reconsider its previous ruling and preclude or limit the testimony and argument: Arguments by counsel regarding this issue and more specifically, regarding the previous testimony that O'Keefe killed people, that O'Keefe was kicked out of the trailer, and that the victim slept behind a locked door. COURT ORDERED, with regard to the last two issues, they will be

excluded. All other issues are areas of impeachment.

3. The State should be precluded from introducing evidence of the costs related to the expert witnesses and improperly disparaging these experts: Arguments by counsel. COURT ORDERED, the Court will allow the testimony; however, counsel are to make sure the Jurors know there were prior hearing, which added to the experts' costs.

4. This Court should preclude the State from arguing or introducing evidence related to domestic violence syndromes, effects, or dynamics or the general cause of fighting against domestic violence: Arguments by counsel. COURT ORDERED, decision DEFERRED until the hearing on the other motions.

5. This Court should preclude the State from inquiring about O'Keefe's 2005 convictions for non-support of his children, as these do not qualify for admission under NRS 50.095: Ms. Palm advised that the State agrees with her on this issue, the convictions are inadmissible.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 18, 2011

08C250630

The State of Nevada vs Brian K O'Keefe

January 18, 2011

8:15 AM

Calendar Call

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

State announced ready. Ms. Palm advised she could not announce ready at this time as she has some Motions pending. The Motion are set to be heard on January 20, 2011, and depending on the outcome, she may or may not be ready for trial; colloquy. COURT ORDERED, Calendar Call CONTINUED.

CUSTODY

CONTINUED TO: 01/20/11 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 20, 2011**

08C250630

The State of Nevada vs Brian K O'Keefe

January 20, 2011**8:15 AM****All Pending Motions****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, Elizabeth Mercer, Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Ms. Palm requested a continuance for the purpose of preparing a Writ. Arguments by counsel. COURT ORDERED, Request DENIED.

Notice of Motion and Motion by Deft. O'Keefe to Dismiss on Grounds of Double Jeopardy Bar and Speedy Trial Violation and, Alternatively, to Preclude State's New Expert Witness, Evidence, and Argument Relating to the Dynamics or Effects of Domestic Violence and Abuse: There are three (3) parts to this Motion . . .

1. Double Jeopardy Bars Must Apply to Prevent Retrial: Arguments by counsel. COURT ORDERED, Motion DENIED; the Court does not find any intentional misconduct on behalf of the State.

2 The State must be Precluded from Introducing New Evidence and Expert Witness Testimony which was not Previously Timely Noticed and which is Otherwise Inadmissible: Arguments by counsel. COURT FINDS, that as far as the timeliness of the notice, it was timely.

3. O'Keefe is Entitled to a Dismissal Based on the Violations of his Constitutional and Statutory Speedy Trial Rights: Arguments by counsel. COURT FINDS, no violation of Deft.'s speedy trial rights

in this case and, therefore, ORDERED, Motion DENIED.

State's Notice of Motion and Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to 48.061: Colloquy regarding a discovery issue. Arguments by counsel. COURT ORDERED, decision DEFERRED. Matter set for Petrocelli Hearing.

Calendar Call: COURT ORDERED, Trial date VACATED and RESET.

Court noted it DEFERRED ruling on Item No. 4 of Deft.'s Motion to Preclude the State from Introducing at Trial Improper Evidence and Argument , which was heard on January 13, 2011, No. 3 above, and the Motion in Limine.

CUSTODY

04/12/11 10:00 AM PETROCELLI HEARING

05/31/11 8:15 AM CALENDAR CALL

06/06/11 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 07, 2011**

08C250630

The State of Nevada vs Brian K O'Keefe

April 07, 2011**8:15 AM****Status Check****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Upon Court's inquiry regarding whether or not there were any impediments that would keep this case from proceeding to trial on June 6, 2011, other than a STAY by the Supreme Court. Mr. Lalli and Ms. Palm advised this all issues are resolved and they are ready to go.

Mr. Lalli advised there is a Petrocelli Hearing on April 12; he anticipates twelve (12) to fifteen (15) witnesses. Mr. Lalli is requesting, for purposes of the Petrocelli Hearing, that the Court accept an offer of proof in lieu of live testimony. Some of the witnesses live out of State and due to the State's economic situation, it makes more sense to have them present at the trial. Ms. Palm advised she was not prepared to argue this issue today; colloquy. If the witnesses are out-of-state, they do not need to appear at this time; however, if there is an offer of proof issue, those witnesses will be heard at a continued Petrocelli hearing.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 27, 2011**

08C250630

The State of Nevada vs Brian K O'Keefe

April 27, 2011**9:30 AM****Hearing**

**Motion In Limine To
Admit Evidence of
Other Bad Acts
Pursuant to NRS
48.045 And Evidence
of Domestic Violence
Pursuant to 48.061**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Ms. Palm presented a Request for Transcripts for today's proceedings; the Order was SIGNED and FILED in open court.

9:51 a.m. Petrocelli Hearing commenced. Ms. Palm indicated there was an issue with an expert; colloquy. Court noted a hearing with regard to the expert shall be set in the near future.

Exclusionary Rule INVOKED; testimony and exhibits presented (see worksheets).

1:46 p.m. Hearing concluded. COURT ORDERED, Argument on the Bad Acts Motion shall be CONTINUED to May 11, 2011. The Court will also hear argument on Ms. Palms Motion for Expert at that date.

08C250630

CUSTODY

CONTINUED TO: 05/11/11 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 11, 2011**

08C250630

The State of Nevada vs Brian K O'Keefe

May 11, 2011**9:30 AM****All Pending Motions****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- NOTICE OR MOTION AND MOTION IN LIMINE TO ADMIT EVIDENCE OF OTHER BAD ACTS
PURSUANT TO NRS 48.045 AND EVIDENCE OF DOMESTIC VIOLENCE PURSUANT TO 48.061 . .
. PETROCELLI HEARING . . . PALM'S MOTION TO WITHDRAW AS COUNSEL

Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Patricia Palm,
Esq., present on behalf of Deft. O'Keefe, who is also present.

Ms. Palm advised there has been an irremediable breakdown in the attorney-client relationship and,
therefore, she is seeking to withdraw as counsel of record; colloquy. Conference at the Bench. COURT
ORDERED, Motion to Withdraw as Counsel GRANTED. Upon Court's inquiry, Deft. stated that he
would like to contact his family to see if he can retain counsel. In the meantime, Court Clerk to
contact Drew Christensen. COURT FURTHER ORDERED, matter set for status check.

The Bad Acts Motion and the Petrocelli Hearing will be re-scheduled after confirmation of Deft.'s
new counsel. COURT ORDERED, trial dates VACATED.

CUSTODY

06/02/11 8:15 AM STATUS CHECK: CONFIRMATION OF COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 02, 2011**

08C250630

The State of Nevada vs Brian K O'Keefe

June 02, 2011**8:15 AM****Status Check****Confirmation of
Counsel****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Liz Mercer, Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present.

Mr. Maningo CONFIRMED as counsel of record; he advised that he has not received the file from Ms. Palm yet but has spoke to her. Colloquy regarding a trial date. The file in this matter is voluminous; therefore, Mr. Maningo would like to quickly glance through the files and speak with Deft. before setting a trial date. COURT ORDERED, matter set for status check. COURT ORDERED, trial date VACATED.

CUSTODY

07/21/11 8:15 AM STATUS CHECK: RESET TRIAL DATE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 21, 2011**

08C250630

The State of Nevada vs Brian K O'Keefe

July 21, 2011**8:15 AM****Status Check**

**Status Check: File;
Reset Trial Date; and
Date for Petrocelli
Hearing**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present.

This is the time set for the status check to reset the trial; Mr. Maningo advised he is prepared to set a trial date. Court noted the trial is expected to last a week and a half. COURT ORDERED, matter set for trial; this will be a FIRM setting.

Mr. Lalli advised a date also needs to be set for argument on the State's Motion for Bad Acts; colloquy. COURT ORDERED, matter set for hearing.

CUSTODY

09/23/11 10:00 AM STATE'S MOTION FOR BAD ACTS

06/05/12 8:15 AM CALENDAR CALL

06/11/12 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 13, 2011**

08C250630

The State of Nevada vs Brian K O'Keefe

October 13, 2011**8:15 AM****Motion****Pro Se Motion to
Dismiss Appointed
Counsel and for
Faretta Hearing****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Lance Maningo, present on behalf of Deft. O'Keefe, who is also present.

Court noted that Deft. is seeking to have Mr. Maningo removed from his case. Upon Court's inquiry, Deft. stated that he and Mr. Maningo have reached an agreement on two (2) issues that he feels are very relevant and important to his case; he would like Mr. Maningo to file a motion so the issues can be argued. Mr. Maningo's assistant has met with Deft. and advised something will be filed within the next two (2) weeks.

Mr. Maningo advised he and the Deft. have had some disagreements on how to defend the case. The parties have reached an agreement on how they are going to proceed. Deft. has agreed to WITHDRAW his motion. Therefore, COURT ORDERED, motion OFF CALENDAR.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 08, 2011**

08C250630

The State of Nevada vs Brian K O'Keefe

November 08, 2011 8:15 AM**Motion to Clarify****Motion to Place on
Calendar****HEARD BY:** Brennan, James**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Jennifer Amelburu, Esq., present on behalf of Deft. O'Keefe, who is also present.

Court noted that the Clark County Detention Center (CCDC) forwarded \$175.00 to the Clark County Clerk. Ms. Amelburu advised there is no order on file with the Clark County Clerk for the return of fees; therefore, she has prepared one. There being no objection by the State, COURT ORDERED, Motion GRANTED; Order signed in open court.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 08, 2011

08C250630

The State of Nevada vs Brian K O'Keefe

December 08, 2011 8:15 AM

All Pending Motions

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- DEFT.'S MOTION TO PLACE ON CALENDAR . . . DEFT.'S PRO PER MOTION TO WITHDRAW COUNSEL

Christopher Lalli, Chf Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present.

DEFT.'S MOTION TO PLACE ON CALENDAR: This Motion was filed by Mr. Maningo for the purpose of addressing Deft.'s Motion to Withdraw Counsel and Faretta Canvass. Court acknowledged said Motion.

DEFT.'S MOTION TO WITHDRAW COUNSEL: Court advised it reviewed Deft.'s Motion. Colloquy regarding the Motion and the reasons Deft. wishes to proceed pro se. Mr. Lalli advised that Deft. does have a right to represent himself and the State would request that the Court complete a Faretta canvass. COURT ORDERED, matter set for Faretta Canvass; motion CONTINUED. COURT FURTHER ORDERED, the Bad Acts Motion is VACATED and will be re-set after the Faretta Canvass.

CUSTODY

12/16/11 8:45 AM FARETTA CANVASS

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****December 16, 2011**

08C250630

The State of Nevada vs Brian K O'Keefe

December 16, 2011 8:45 AM**All Pending Motions****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- DEFT.'S MOTION TO WITHDRAW COUNSEL AND FARETTA CANVASS . . . FARETTA CANVASS

Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present.

Upon Court's inquiry, Deft. stated that he still wants to represent himself in this matter. Court conducted a Faretta Canvass and FINDS, Deft. competent to WAIVE his constitutional right to be represented by counsel. COURT FURTHER FINDS, that Deft. is WAIVING such right, freely, knowingly, and voluntarily. Colloquy regarding stand-by counsel and an investigator. COURT ORDERED, Deft.'s pro se Motion to Withdraw Counsel is GRANTED. Mr. Maningo shall be APPOINTED as STAND-BY COUNSEL; he advised Investigator, Craig Retke, has already been appointed and approved in this matter. Deft. indicated that he would like to keep Retke as his investigator.

Deft. requested the Court sign an Order for copies from inmate's account, which was presented to the Court for consideration; colloquy. Court directed Deft. to file the appropriate motion. Mr. Lalli

advised the hearing on the Bad Acts motion needs to be finished. The hearing was started back on April 27, 2011, and continued to May 11, 2011. On May 11, 2011, Patricia Palm, Esq., withdrew so the Motion now needs to be rescheduled. COURT ORDERED, motion set for hearing.

CUSTODY

02/17/12 8:45 AM CONTINUED HEARING: MOTION IN LIMINE TO PRESENT EVIDENCE OF OTHER BAD ACTS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 17, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

February 17, 2012**8:45 AM****Hearing****Motion in Limine to
Present Evidence of
Other Bad Acts (Filed
01/06/11)****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Liz Mercer, Dep DA, and Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se with stand-by counsel, Lance Maningo.

Court noted this is the continued hearing on State's Motion in Limine to present Evidence of Other Bad Acts. Argument by Ms. Mercer and Deft. COURT ORDERED, decision DEFERRED as the Court would like to review this matter further.

Deft. advised that he needs to have an investigator appointed; colloquy. Skye Campbell is present today to be appointed. There being no opposition by the State, COURT ORDERED, request GRANTED, Skye Campbell shall be appointed as the investigator in this case. Court directed Deft. to submit an Order.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 01, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

March 01, 2012**8:15 AM****Decision****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Lorna Shell**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to NRS 48.061 came before this Court on February 17, 2012. The Court deferred the matter, In accordance with NRS 48.045, evidence of other bad acts is only admissible where three requirements are met: (1) the incident is related to the crime charged; (2) the act is proven by clear and convincing evidence; and (3) the evidence is more probative than prejudicial. Cipriano v. State, 111 Nev. 534, 894 P.2d 347 (1995).

The COURT FINDS that the State established by clear and convincing evidence the facts and circumstances of the offense occurring on or about April 2, 2004, to which Defendant received a felony conviction in C207835.

The COURT FURTHER FINDS that the admission of facts and circumstances of the other cases (03M00410X, 03M25901X, 03M26791X, C581783A, and C202793) State requested would have a prejudicial effect which would outweigh the probative value.

Therefore, COURT ORDERED Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to NRS 48.061 is GRANTED IN PART and DENIED IN PART.

The State is directed to submit a proposed order consistent with the foregoing within ten (10) days

and distribute a filed copy to all parties involved pursuant to EDCR 5.90(e). Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CUSTODY

03/15/12 8:15 AM STATUS CHECK

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Chief Deputy D.A., Christopher Lalli and Deputy D.A., Liz Mercer.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 15, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

March 15, 2012**8:15 AM****Status Check****Order (Decision
03/01/12)****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe present pro se.

Court noted that it received the Order Granting, in Part, the State's Motion to Admit Evidence of Other Bad Acts on March 12, 2012; it was filed on March 13, 2012.

MATTER RECALLED: Only Deft. is present. Court provided Deft. with a copy of the above-mentioned Order.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 29, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

March 29, 2012**8:15 AM****Motion to Dismiss****Deft.'s Motion to
Dismiss Based upon
Violations****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se.

Deft. filed a Motion to Seal Records on March 22, 2012; hearing is set for April 10, 2012. Court noted there is a Receipt of Copy but it is unsigned and there is no Certificate of Mailing. Mr. Lalli advised that since the State is now aware of said Motion, he will file the appropriate response; he requested that he be given until April 5, 2012, to file a response. COURT SO ORDERED.

Further, Deft. advised he did not receive a filed stamped copy of the State's Opposition to his Motion to Dismiss Based upon Violations within the seven (7)-day time period specified in EDCR 3.20. Court noted the Motion to Dismiss was filed on March 16, 2012, and the Opposition was filed by the State on March 21, 2012. Argument by Deft. Mr. Lalli submitted the matter on his Opposition. COURT FINDS, there is no issue of double jeopardy in this particular matter and the State is not precluded from introducing bad-act evidence under NRS 48.045. The Nevada Supreme Court reversal does not preclude a retrial. Therefore, COURT ORDERED, motion DENIED.

State to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 10, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

April 10, 2012**8:15 AM****Motion****Deft.'s Motion to Seal
Records****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe present pro se.

This is the time set for hearing on Deft.'s Motion to Seal Records. Court noted it was just handed a copy of the State's Opposition, which it has not had an opportunity to review.

Mr. Lalli advised that Deft. has also filed a Motion to Admit Evidence of Polygraph Examination it is set for hearing on April 12; he wants the examination to be admitted during the upcoming trial. Mr. Lalli advised that he cannot take a position on this issue until he is able to review the examination, which he just received. During the examination Deft. made a couple of statements which need further investigation. Mr. Lalli would like some of the supporting documentation and would also like to speak with Deft.'s former counsel, Randall Pike, Asst. SPD, regarding the examination. However, Deft. would need to WAIVE the attorney-client privilege.

Deft. makes statements regarding the Polygraph Examination; he stated there was also a video. Mr. Lalli requested a copy of same.

Court advised it needs additional time to review the State's Opposition to the Motion to Seal. Therefore, COURT ORDERED, Motion to Seal Records CONTINUED; the hearing date (April 12, 2012) on the Motion to Admit Evidence of Polygraph is VACATED and the Motion shall be set for a

status check. Deft. shall file a supplement to his Motion to Seal by April 17, 2012; Court directed him to specifically address NRS 179.245(4). State may then supplement its Opposition. COURT FURTHER ORDERED, Deft. to provide a release to his Investigator so the video of the polygraph can be provided to Mr. Lalli.

Upon Court inquiry as to whether or not Deft. would waive the attorney-client privilege, Deft. stated he was not prepared to make a decision on that issue at this time. Court urged Deft. to consult with stand-by counsel, Lance Maningo, regarding the above-named motions before making a decision.

CUSTODY

CONTINUED TO: 04/26/12 8:15 AM

04/26/12 8:15 AM STATUS CHECK: MOTION TO ADMIT EVIDENCE OF POLYGRAPH

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 17, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

April 17, 2012**8:15 AM****Motion****Deft.'s Motion for
Complete Rough
Draft Transcript****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe present pro se.

This is the time set for hearing on Deft.'s Motion for Complete Rough Transcript. Court noted Deft. is requesting a transcript of the March 29, 2012, hearing. Mr. Lalli advised the State does not oppose said Motion. COURT ORDERED, motion GRANTED; Deft. to prepare an Order.

Court noted it was provided an Order from the Ninth Circuit Court of Appeals; the signature page is missing. Deft. stated that on the last page of the Order, which the Court does not have, the Attorney General's office has been contacted, a briefing schedule has been set, and if he so chooses, a Federal attorney will be appointed for him. Colloquy regarding same. Mr. Lalli advised that he does not believe the Order pertains to the instant case. Deft. has another case with a Federal Writ of Habeas Corpus on an underlying conviction.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 26, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

April 26, 2012**8:15 AM****All Pending Motions****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- DEFT.'S MOTION TO SEAL RECORDS . . . DEFT.'S MOTION TO ADMIT EVIDENCE OF
POLYGRAPH EXAMINATION

Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se.

MOTION TO SEAL RECORDS: Deft. advised that he is seeking to seal his dismissed and acquitted cases; argument. Mr. Lalli advised that he wanted to correct some things in Deft.'s motion; Deft. represented that C202793 was dismissed but he was found guilty, in 03M00410X Deft. represented that it was dismissed but he pled guilty to one of the Counts, and in 03M26791X the case was dismissed pursuant to negotiations. Argument by Mr. Lalli; based on the Cavaricci case, Mr. Lalli believes it would be an abuse of discretion for the District Court to seal the records of an individual who has an active current criminal record. COURT ORDERED, motion DENIED. State to prepare the Order.

Court noted that an Order from the Ninth Circuit Court of Appeals, dated April 13, 2012, was provided to it last date. Colloquy regarding said Order and whether or not Deft. believes said Order STAYS the instant case. Mr. Lalli advised the Order is from a Pre-Trial Habeas Petition in Federal Court, which challenges the instant case and may be considered a collateral attack. Therefore, the instant case would not be STAYED.

MOTION TO ADMIT EVIDENCE OF POLYGRAPH EXAMINATION: Court noted that Polygraph Examinations are typically not admitted into evidence because there is a dispute as to the reliability of said examinations and, therefore, this Court does not think the admission of such an examination would not be appropriate. Further, the Court believes that entering said examination results would adversely affect Deft.'s constitutional rights for a fair trial in this case. COURT ORDERED, motion DENIED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 29, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

May 29, 2012**8:15 AM****Request****Status Check: Trial
Readiness****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Deft. O'Keefe, present pro se.

Mr. Lalli advised he had this matter placed on calendar because the trial is less than two (2) weeks away and he would like to obtain some assurance from Deft. that he will be ready for trial. The State is ready to go. Mr. Lalli has another case that is also set for the same day, but his preference is to go ahead with this one.

Upon Court's inquiry as to whether Deft. was ready to proceed to trial, Deft. stated some important mail from the Ninth Circuit has been lost; colloquy. Court advised barring any unforeseen circumstances, this case will proceed to trial as scheduled.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 05, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

June 05, 2012**8:15 AM****All Pending Motions****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- CALENDAR CALL . . . DEFT.'S MOTION TO CONTINUE TRIAL

Christopher Lalli, Chf Def. DA, present on behalf of the State and Deft. O'Keefe present pro se.

Also present: Lance Maningo, Esq., Deft.'s stand-by counsel and Ryan Norwood, Asst Fed PD.

Upon Court's inquiry as to whether or not the parties were ready for trial, Mr. Lalli advised the State is ready. However, Deft. stated that he is claiming a Federal violation of his Constitutional Rights and has an open case in the Ninth Circuit Court of Appeals and would like the instant case STAYED until the conclusion of his Federal case. Further, Deft. is not totally prepared for trial at this time because he devoted much of his time to his Federal case; therefore, Deft. orally moved for a continuance of the trial. Colloquy regarding same. Statement by Mr. Maningo; he advised he has nothing to add only that Mr. Norwood is present today to inform the Court about what is going on in Deft.'s Federal case.

Mr. Lalli advised that he had this matter placed on calendar last week to inform Deft. and the Court that he had two trials set for the same day and that if Deft. was ready to proceed to trial in the instant case, Mr. Lalli would have his other trial continued. Deft. stated that he was ready and the Court advised that absent a STAY from the Ninth Circuit, this matter would be proceeding to trial. The State has been meeting with witnesses and subpoenas have been served. Therefore, the State is opposed to a continuance at this time for the reasons stated on the record. Statements by Mr.

Norwood and colloquy about the case before the Ninth Circuit.

COURT ORDERED, Deft.'s oral motion to continue the trial is DENIED. If the Ninth Circuit issues a stay on or before Friday, June 8, 2012, this case will be stayed. If not, the matter will proceed to trial on Monday, June 11, 2012, at 9:30 a.m.

With regard to the Motion to Continue Trial filed by Mr. Maningo, which was set for June 19, 2012, the Court advised it reviewed said Motion. There being no good cause to continue the trial, COURT ORDERED, Motion ADVANCED and DENIED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****June 11, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

June 11, 2012**9:30 AM****Jury Trial****HEARD BY:** Bonaventure, Joseph T.**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

10:00 a.m. Trial commenced. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Argument by Mr. Lalli regarding Judge Villani's ruling on the State's Bad Acts Motion. Deft. requested the Court take Judicial Notice of certain documents, which were marked for identification as Court's Exhibit No. 2 and ADMITTED. Argument by Deft. with regard to the Bad Acts; he orally moved the Court for a dismissal for the reasons stated on the record. COURT ORDERED, Motion DENIED. Deft. then requested that all objections be Federalized; colloquy. COURT FURTHER ORDERED, request DENIED.

10:27 a.m. the PROSPECTIVE JURORS PRESENT: Court and Deft. begin Voir Dire examination of the prospective Jurors.

Court received a note from Prospective Juror 079, he is ill. COURT ORDERED, this Prospective Juror is RELEASED; the note was marked for identification as Court's Exhibit No. 1 and ADMITTED.

5:14 a.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

08C250630

CONTINUED TO: 06/12/12 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 12, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

June 12, 2012**9:30 AM****Jury Trial****HEARD BY:** Bonaventure, Joseph T.**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

10:02 a.m. Jury Trial resumed. PROSPECTIVE JURORS PRESENT: Court and Deft. continued Voir Dire examination of the Prospective Jurors.

Jury and two (2) alternates selected and sworn. Clerk read the Second Amended Information to the Jury and stated the Deft.'s plea thereto.

OUTSIDE THE PRESENCE OF THE JURY: Deft. stated for the record that he believes that proceeding to trial at this time constitutes a true double jeopardy violation and is also in violation of the laws and treaties of the United States of America on double jeopardy, due process, and collateral estoppel is implied. Court noted for the record Deft.'s continuing objection with regard to the above.

Deft. further objected to the battery domestic violence evidence and testimony. Court again noted for the record Deft.'s continuing objection with regard to this issue as well.

JURY PRESENT: Opening Statements by Mr. Lalli and Deft. Exclusionary Rule INVOKED. Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Court canvassed Deft. with regard to his right not to testify.

5:00 a.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 06/13/12 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 13, 2012

08C250630

The State of Nevada vs Brian K O'Keefe

June 13, 2012

9:30 AM

Jury Trial

HEARD BY: Bonaventure, Joseph T.

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

9:50 a.m. Jury Trial resumed. Testimony and exhibits presented (see worksheets).

4:03 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 06/14/12 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 14, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

June 14, 2012**9:30 AM****Jury Trial****HEARD BY:** Bonaventure, Joseph T.**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

10:04 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: The State is requesting that a Stipulation pertaining to the excerpts from the medical records of the victim, that was read to the Jury at the previous trial and remarked for identification as Court's Exhibit No. 9, be read to this Jury. Deft. has his own version of the Stipulation that he would like read to the Jury and also requested that it be marked as a Defense Exhibit so the Jury can take it back to the Jury room with them; it is marked for identification as Court's Exhibit No. 6. The parties cannot agree on which one should be read; Mr. Lalli objects to it being admitted as a Defense Exhibit. Arguments by Mr. Lalli and Deft. COURT ORDERED decision DEFERRED.

Deft. would like to play a 911 call, he presented the disc to the Court and it was marked for identification as Court's Exhibit No 7. Mr. Lalli advised he has a 911 call from a witness they could not locate, State's Exhibit No. 129. will not be played because he cannot lay the proper foundation. It was played at the first trial so he will play it if there is a Stipulation; however, with regard to Court's Exhibit No. 7, the person who made the call was not called as a witness so it is hearsay and, therefore, cannot be played. Arguments by Mr. Lalli and Deft. COURT ORDERED, neither of the above-mentioned 911 calls will be played for the Jury as there is no foundation.

10:21 a.m. the JURY is PRESENT. Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: The Court received a note from Juror No. 12. The note was marked for identification as Court's Exhibit No. 8. Juror No. 12 was questioned outside the presence of the Jury. COURT ORDERED, this Juror shall remain.

Further discussion about the Stipulation; Court advised he could either read it to the Jury or it can be admitted as a Defense Exhibit but it cannot do both. Deft. agreed to have it read to the Jury at the appropriate time.

JURY PRESENT: Testimony and exhibits presented (see worksheets). Stipulation read to the Jury.

2:30 p.m. Jury dismissed for the day. OUTSIDE THE PRESENCE OF THE JURY: Deft. orally moved for a directed verdict. Arguments by Mr. Lalli and Deft. COURT ORDERED, motion DENIED. Jury Instructions and Verdict form settled on the record.

3:36 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 06/15/12 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 15, 2012

08C250630

The State of Nevada vs Brian K O'Keefe

June 15, 2012

9:00 AM

Jury Trial

HEARD BY: Bonaventure, Joseph T.

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

9:15 a.m. Jury Trial resumed. JURY PRESENT: Court instructed the Jury. Closing arguments by Ms. Mercer and Deft.; rebuttal by Mr. Lalli.

At the hour of 11:09 a.m., the Jury retired to deliberate. Court thanked and excused the alternates.

At the hour of 1:58 p.m., the Jury RETURNED. Ms. Mercer, Deft, and Mr. Maningo are present. The verdict is as follows: GUILTY of MURDER of the SECOND DEGREE with USE OF A DEADLY WEAPON (F). Court thanked and excused the Jury. COURT ORDERED, matter set for sentencing.

2:05 p.m. Court ADJOURNED.

CUSTODY

08/16/12 8:15 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 16, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

August 16, 2012**8:15 AM****Sentencing****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se and Lance Maningo, Esq., present as stand-by counsel.

Upon Court's inquiry, Deft. stated he just received a copy of the Presentence Investigation (PSI) report this morning and has not had a opportunity to review it; further, he has some questions about the PSI and would like to talk with Mr. Maningo. Therefore, he requested that the matter be continued. Mr. Lalli has no objection to the continuance. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 08/28/12 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****August 28, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

August 28, 2012**8:15 AM****Sentencing****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

Pursuant to the Jury's verdict, DEFT. ADJUDGED GUILTY OF MURDER OF THE SECOND DEGREE WITH USE OF A DEADLY WEAPON (F). Mr. Lalli provided some pictures to the Court of the victim; the pictures were marked for identification as State's Exhibit 1 and ADMITTED. Arguments by Mr. Lalli and Deft. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, WAIVED if already paid, and the \$150.00 DNA Analysis fee including testing to determine genetic markers, WAIVED if already paid, Deft. SENTENCED to a MAXIMUM of THREE (300) MONTHS and a MINIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE term of a MAXIMUM of TWENTY (20) YEARS and a MINIMUM of EIGHT (8) YEARS for use of a deadly weapon, with ONE THOUSAND THREE HUNDRED NINETY-FOUR (1,394) DAYS credit for time served.

Colloquy regarding a possible appeal and the appointing of Mr. Maningo as appellate counsel. Mr. Maningo advised he would like to speak to Deft. regarding the basis for his appeal before he accepts the appointment. COURT ORDERED, matter set for status check; BOND, if any, EXONERATED.

NDC (CUSTODY)

08C250630

09/06/12 8:15 STATUS CHECK: APPOINTMENT OF APPELLATE COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 06, 2012**

08C250630

The State of Nevada vs Brian K O'Keefe

September 06, 2012 8:15 AM**Status Check****Appointment of
Appellate Counsel****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Colleen Brown, Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is not present.

Mr. Maningo advised that Deft.'s presence was WAIVED for today last court date; he has received the transcripts for this matter and can CONFIRM as Appellate Counsel. COURT ORDERED, Mr. Maningo is APPOINTED as Appellate Counsel for Deft.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 07, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

January 07, 2014**8:15 AM****All Pending Motions****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- DEFT.'S PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORAM NOBIS . . . DEFT.'S MOTION TO WAIVE FILING FEES FOR PETITION FOR WRIT OF MANDAMUS . . . DEFT.'S MOTION TO APPOINT COUNSEL

Gwynneth Smith, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

Court noted the Deft. filed the above-named pleadings, pro se. The allegations complained of in Deft.'s Petition relate to C202793; therefore, the Petition and the Motions were filed under the wrong case number and Deft. will need to re-file said pleadings in Department XXIII so they may be heard before the appropriate Judge. COURT ORDERED, Petition and Motions DENIED, without prejudice.

NDC

CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89070-0650.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 04, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

February 04, 2014**8:15 AM****Motion**

**Ex-Parte Motion for
Production of
Documents,
(Specific) Papers,
Pleadings, and
Tangible Property of
Deft.**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Gwynneth Smith, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

This is the time set for hearing on the Deft.'s Ex-Parte Motion for Production of Documents, (Specific) Papers, Pleading, and Tangible Property, which he filed pro se.

Within Deft.'s pleading he is requesting various documents; COURT ORDERED, Motion GRANTED as it pertains to Deft.'s general request for the documents in counsel's file. However, Deft.'s list of specific requests is DENIED, without prejudice, as he has not set forth the precise reason as to why he needs said documents.

NDC

CLERK'S NOTE: A copy of this minute order e-mailed to Lance Maningo, Esq. and mailed to Brian

08C250630

O'Keefe #90244, High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89018.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 11, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

February 11, 2014**8:15 AM****Motion**

**Deft.'s Ex-Parte
Motion for
Reimbursement of
Incidental Costs
Declaring Defendant
Indigent and
Granting Forma
Pauperis**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Emily Montgomery, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the time set for hearing on Deft.'s E-Parte Motion for Reimbursement of Incidental Costs Declaring Deft. Indigent and Granting Forma Pauperis, which he filed pro se. COURT ORDERED, Motion DENIED.

Court noted that the Court minutes do not reflect any promise by this Court, or anyone else, to reimburse the Deft. for his costs; NRS 12.015(2)(a) does not allow for reimbursement of copy expenses but only court fees.

State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is submitted prior to the status check date, it will be VACATED.

08C250630

NDC

03/06/14 8:15 AM STATUS CHECK: ORDER (02/11/14)

CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89018.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 27, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

February 27, 2014**8:15 AM****Motion****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carole D'Aloia**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**Beverly, Leah C
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Court noted the absence of the Defendant as he is currently in the Nevada Department of Corrections (NDC). Court advised it is not hearing oral argument on this motion, noting it reviewed all pleadings. COURT ORDERED, procedural history as set forth by the State ADOPTED. Court finds Defendant is not entitled to a modification of sentence as the sentence imposed was not an illegal sentence and, ORDERED, motion DENIED; State to prepare and submit Order, and matter set for STATUS CHECK.

NDC

3/20/14 8:15 AM STATUS CHECK: ORDER OF 2/27/14

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 06, 2014**

08C250630

The State of Nevada vs Brian K O'Keefe

March 06, 2014**8:15 AM****Status Check****Order (02/11/14)****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Tyler Smith, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

This is the time set for the Status Check on the Order from the February 11, 2014, hearing. Court noted the Order was filed on February 28, 2014, and ORDERED, matter OFF CALENDAR.

NDC