

IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

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JUN 14 2016

FERRILL T. VOLPICELLI,
APPELLANT,

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

CASE NO. 70126

vs.

D.C. No. CRO3-1263

STATE OF NEVADA,
RESPONDENTS,

MOTION FOR SUBSTITUTION OF APPELLANT'S
MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF APPEAL FOR THE 'INFORMAL BRIEF
FORM FOR PRO SE PARTIES.

APPELLANT, FERRILL T. VOLPICELLI ('Vulpicelli'), in
PRO SE, MOVES THE COURT FOR SUBSTITUTION OF
APPELLANT'S MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF APPEAL FOR THE
'INFORMAL BRIEF FOR PRO SE PARTIES' (NRAP 31(c)(1)).
THIS MOTION IS BROUGHT PURSUANT TO THE
APPLICABLE NRAP, ALL PAPERS ON FILE HEREIN,
AND THE FOLLOWING POINTS AND AUTHORITIES.

RECEIVED

JUN 13 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

16-18482

POINTS AND AUTHORITIES

STATEMENT OF FACTS

ON JANUARY 7, 2016, VOLPICELLI FILED A MOTION FOR JUDICIAL ACTION SPECIFIC TO GROUND TWENTY-THREE (23) OF HIS 2005 STATE HABEAS PETITION.

ON JANUARY 21, 2016, RESPONDENTS FILED THEIR OPPOSITION TO SAID MOTION.

ON MARCH 8, 2016, THE DISTRICT COURT ISSUED AN ORDER, INTER ALIA, DENYING GROUND 23.

ON APRIL 1, 2016, VOLPICELLI TIMELY FILED HIS NOTICE OF APPEAL WITH ACCOMPANYING POINTS AND AUTHORITIES, AS WELL AS THE ATTACHMENT.

ON APRIL 1, 2016, VOLPICELLI TIMELY FILED HIS MEMORANDUM OF POINTS AND AUTHORITIES WITH ATTACHMENT IN SUPPORT OF APPEAL ISSUES.

ON APRIL 8, 2016, THE DISTRICT COURT CLERK FILED ITS CASE APPEAL STATEMENT.

ON APRIL 11, 2016, THE CLERK OF THE NEVADA SUPREME COURT FILED A RECEIPT FOR DOCUMENTS.

ON APRIL 13, 2016, RESPONDENTS FILED A NOTICE OF SUBSTITUTION OF COUNSEL IN THIS COURT.

ON APRIL 19, 2016, VOLPICELLI FILED A MOTION TO TAKE JUDICIAL NOTICE IN THIS COURT AS TO HIS APRIL 1, 2016 DOCUMENTS POSING THE ISSUES WITHIN SAID MEMORANDUM OF POINTS AND AUTHORITIES.

ON MAY 3, 2016, VOLPICELLI FILED ANOTHER MOTION TO TAKE JUDICIAL NOTICE AS TO HIS AFFIDAVIT IN CONNECTION WITH GROUND 23. ON MAY 18, 2016, THE CLERK OF THIS COURT FILED AN ORDER DIRECTING THE CLERK OF THE DISTRICT COURT TO TRANSMIT RECORD, AND WITHIN 120 DAYS APPELLANT MAY BRIEF HIS ISSUES.

ARGUMENT

VOLPICELLI HAS GIVEN PROPER NOTICE TO BOTH THE DISTRICT COURT AND THE NEWEST SUPREME COURT THAT HIS ISSUES ON APPEAL ARE TIMELY FILED AND RIPE FOR THE COURTS' REVIEW. HOWEVER, IN THE INTEREST OF FAIR NOTICE AND SO THAT THERE IS NO COMPLICATIONS BARRING THIS COURT'S REVIEW OF THE ISSUES PRESENTED, VOLPICELLI SEEKS APPROVAL THAT HIS MEMORANDUM OF POINTS AND AUTHORITIES FILED WITH HIS NOTICE OF APPEAL CAN SUBSTITUTE FOR THE 'INFORMAL BRIEF FOR PRO SE PARTIES' UNDER NRAP 31(a)(1). THE MOTION IS POSED DUE TO THE COMPLEXITIES OF THE NUMEROUS ISSUES ON REVIEW AND IN THE INTEREST OF JURIS-PRUDENCE.

ADDITIONALLY, VOLPICELLI SEEKS AN ORDER

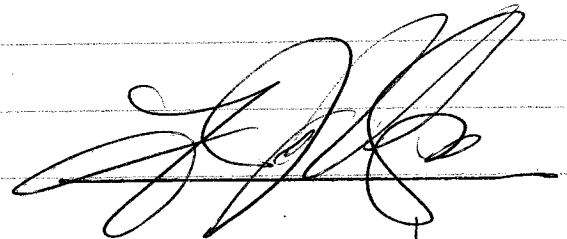
FOR THE RESPONDENTS TO REPLY TO SAID
QUESTIONS PRESENTED FOR REVIEW ON APPEAL.
THIS INCLUDES: SECTION I WHICH POSES
ELEVEN (11) QUESTIONS SPECIFIC TO THE
2005 WRIT OF HABEAS CORPUS' GROUND 23.
SECTION II WHICH PRESENTS A QUESTION
OF LAW RELEVANT TO THE LIFT OF STAY MATTER
SPECIFIC TO THE 2013 WRIT OF HABEAS CORPUS.
SECTION III POSES A QUESTION OF LAW
CONCERNING GROUNDS 1-22 OF THE 2013 WRIT
AND WHETHER THEY ARE INDEED SEVERAL/SUCCESSIVE.
LASTLY, SECTION IV PRESENTS QUESTIONS "A"
THROUGH "I" WITH REGARDS TO GROUNDS
3, 5, 10, 12, 13, 16, 21 & 22 CONTAINED IN BOTH
THE 2005 AND 2013 WRITS.
VOLPICELLI FURTHER REQUESTS THIS COURT
LIBERALLY CONSTRUCT HIS PLEADINGS INsofar
AS THE CONSTITUTIONAL TRANSGRESSIONS
WHICH CONTINUE TO UNJUSTIFIABLY IMPRISON
HIM. (ERIKSSON V PAROUS, 551 US 89 (2002)).

CONCLUSION:

BASED ON THE FOREGOING, THIS COURT
SHOULD GRANT VOLPICELLI'S MOTIONS FOR
SUBSTITUTION OF APPELLANT'S MEMORANDUM
OF POINTS AND AUTHORITIES IN SUPPORT
OF APPEAL FOR THE 'INFORMAL BRIEF'

FOR PRO SE PARTIES, AS WELL AS ISSUE
AN ORDER FOR THE RESPONDENTS TO
REPLY TO EACH AND EVERY QUESTION OF
LAW POSED BY VOPICELLI WITHIN SAID
MEMORANDUM'S SECTIONS I THROUGH IV.

DATED THIS 9th
DAY OF JUNE, 2016



FERRIS T. VOPICELLI
79565 @LCC
1200 PRISON RD
LOVELOCK, NV 89409

APPELLANT IN PRO SE

AFFIRMATION PURSUANT TO NRS 239B.030, THE UNDERSIGNED
DOES HEREBY AFFIRM THAT THE PRECEDING MOTION DOES NOT
CONTAIN THE SOCIAL SECURITY # OF ANY PERSON.

CERTIFICATE OF SERVICE, I, FERRIS T. VOPICELLI, DO
CERTIFY UNDER PENALTY OF PERJURY THAT I MAILED A TRUE
AND CORRECT COPY OF THE INSTANT MOTION TO THE
ADDRESSES BELOW ON THIS 9th DAY OF JUNE, 2016

WASHOE COUNTY DISTRICT ATTORNEY
75 COURT ST RENO, NV 89501
NEVADA ATTORNEY GENERAL
100 CARSON ST, CARSON CITY, NV
5



FERRIS T. VOPICELLI
APPELLANT IN PRO SE