

IN THE SUPREME COURT OF THE STATE OF NEVADA

x x x x

FERRILL T. VOLPICELLI,  
PETITIONER-APPELLANT,

vs.

STATE OF NEVADA,  
RESPONDENT-APPELEE,

Case # 70126  
**FILED**

FEB 13 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY J. Hendrick  
DEPUTY CLERK

Motion For Clarification

PETITIONER-APPELLANT FERRILL T. VOLPICELLI (VOLPICELLI) MOVES THE COURT FOR CLARIFICATION AS TO THE FEBRUARY 1 2017 ORDER (17-03633).

THIS MOTION IS BASED UPON THE RECORDS OF THE NEVADA COURTS, AS WELL AS THE APPLICABLE RULES OF APPELLANT PROCEDURE FOR THE STATE OF NEVADA, NEVADA REVISED STATUTE 34 et seq., AND THE FOLLOWING DISCUSSION:

DISCUSSION

AS BACKGROUND, VOLPICELLI APPEALED THE DISTRICT COURT'S FINAL ORDER DATED March 2016 of this writ of HABEAS CORPUS (Post-conviction) DATED November 9, 2005. AND APPEAL WAS TIMELY MADE ON OR

RECEIVED

FEB 08 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

17-04914

ABOUT APRIL 11, 2016. (16-11190).

ON DECEMBER 1, 2016, VOLPICELLI FILED A SECOND MOTION TO TAKE JUDICIAL NOTICE (16-37245), SPECIFIC TO MOVING THE COURT TO CONSIDER THE JURISDICTIONAL IMPLICATIONS OF THREE DISTRICT COURT ORDERS IN THE 2005 WRIT. (AUGUST 2, 2007; APRIL 14, 2008; MARCH 8, 2016).

TO DATE, THE STATE HAS NOT ANSWERED TO ANY OF VOLPICELLI'S READINGS FILED IN THE INSTANT APPEAL.

ON FEBRUARY 2, 2017, VOLPICELLI RECEIVED THIS COURT'S ORDER DATED FEBRUARY 1, 2017. (17-03613) (EXHIBIT 1).

SAID ORDER DENIED VOLPICELLI'S MOTION STATING, INTER ALIA, "IT APPEARS THAT AT LEAST 3 OF THE 4 DISTRICT COURT ORDERS ARE INCLUDED IN THE RECORD, WHICH WAS TRANSMITTED IN ITS ENTIRETY TO THIS COURT. TO THE EXTENT THE 4TH ORDER IS NOT INCLUDED, THIS COURT WILL NOT CONSIDER MATTERS NOT PROPERLY PART OF THE RECORD ON APPEAL. (SEE NRAP 10).

FIRST, VOLPICELLI REQUESTS CLARIFICATION AS TO WHAT THIS 4TH DISTRICT COURT ORDER IS AS IT RELATES TO THE INSTANT MOTION. REASON BEING, SAID MOTION ONLY

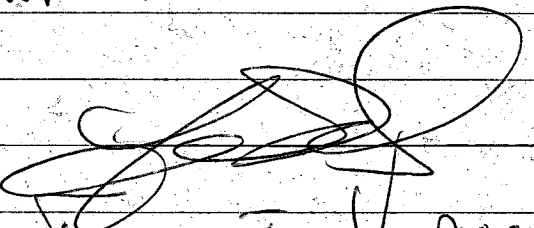
REFERENCES 3 DISTRICT COURT ORDERS,  
SECONDLY, IF THIS 4<sup>TH</sup> ORDER IS RELEVANT  
TO CR03-1263 AND ITS POST CONVICTION  
4/OR DIRECT APPEAL DOCUMENTS, WHY WASN'T  
IT TRANSMITTED TO THIS COURT BY THE CLERK  
OF THE DISTRICT COURT?

ON THE SAME DAY THAT VOLPICELLI  
RECEIVED THIS COURT'S ORDER DATED FEBRUARY  
1, 2017, VOLPICELLI PLACED A CALL TO THE  
COURT'S CLERK FOR CLARIFICATION,  
SAID CLERK REQUESTED THAT VOLPICELLI  
CONTACT THE DISTRICT COURT ON THE MATTER.  
VOLPICELLI REQUESTS CLARIFICATION AS TO  
THIS 4<sup>TH</sup> ORDER AS IT MAY OR MAY NOT  
Pertain TO HIS CLAIMS, OTHERWISE, VOLPICELLI  
MAY BE PREJUDICED IN THIS COURT'S REVIEW  
OF ANY AND ALL RELEVANT DOCUMENTS,

### CONCLUSION:

BASED ON THE FOREGOING, THIS COURT SHOULD  
CLARIFY THE ORDER AS IT RELATES TO THE  
CONTROVERSIAL 4<sup>TH</sup> DISTRICT COURT'S ORDER  
AND THIS COURT'S REVIEW.

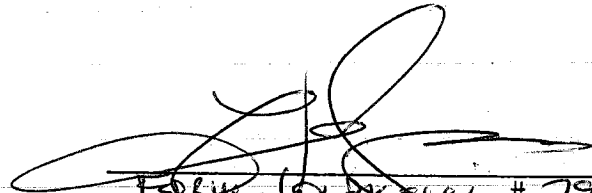
DATED THIS 6<sup>TH</sup> DAY  
OF FEBRUARY, 2017

  
Ferrie T. Volpicelli  
PETITIONER - APPELLANT

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the  
foregoing Motion for Certification  
to the below address(es) on this 6<sup>th</sup> day of February,  
2017, by placing same in the U.S. Mail via prison law library  
staff, pursuant to NRCP 5(b):

WASHOE COUNTY DISTRICT ATTORNEY  
75 COURT ST  
LENO, NV 89001

  
Tereke Valpagan #7922  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419  
Applicant In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

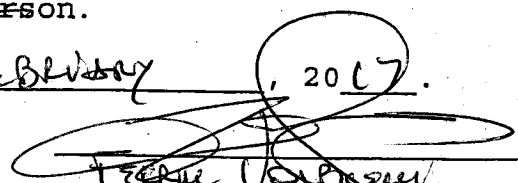
The undersigned does hereby affirm that the preceding  
Motion for Certification filed in  
NSC  
District Court Case No. 20126 does not contain the  
social security number of any person.

Dated this 6<sup>th</sup> day of February, 2017.

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ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

  
Tereke Valpagan  
Applicant In Pro Se

IN THE SUPREME COURT OF THE STATE OF NEVADA

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 70126

**FILED**

FEB 01 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

**ORDER**

This is a pro se appeal from an order denying a postconviction petition for a writ of habeas corpus. Appellant has filed a motion asking this court to take judicial notice of several district court orders. It appears that at least three of the four orders are included in the record, which has been transmitted in its entirety to this court. To the extent the fourth order is not included, this court will not consider matters not properly part of the record on appeal. See NRAP 10; *Carson Ready Mix v. First Nat'l Bk.*, 97 Nev. 474, 635 P.2d 276 (1981). Accordingly, the motion is denied.

It is so ORDERED.

*Cherry*, C.J.

cc: Ferrill Joseph Volpicelli  
Attorney General/Carson City  
Washoe County District Attorney

SUPREME COURT  
OF  
NEVADA

(O) 1947A

**RECEIVED**

FEB 08 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

17-03633