

IN THE SUPREME COURT OF THE STATE OF NEVADA

**FILED**

AUG 16 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ROBERT HOLMES, III

\$70,000 Appellant,

Supreme Court Case No. : 71680 ✓

District Court Case No. A537416

vs.

No. 72379

LAS VEGAS METROPOLITAN

POLICE DEPARTMENT,

**Respondents**

Motion to Notify The Court That Appellant is In Forma Pauperis Status

Robert Holmes III pro se

4657 swaying Ferns Drive

Las Vegas Nevada 89147

702-758-0228



Appellant-in pro se

*submitted by Robert Holmes III*

*X Robert Holmes III*

*8-9-2017*

*17-27404*

Appellant ask this honorable court to reinstate his two appeals that were dismissed without prejudice by this honorable court on July 5,2017, Appeal Numbers 71680 and 72379. Appellant Bankruptcy case was dismissed on July 7, 2017 Case No. 17-12300-led. This honorable court stated in its order that the Appellant has 60 days of entry of the order lifting the stay or concluding the bankruptcy proceeding. Appeals 71680 and Appeals 72379. Appeal No.71680 is the granting of the Summary Judgment. Appeal No. 72379 is the Appeal of the order granting a motion for attorney fees and costs. (Docket No. 72379)

Appellant was granted Forma Pauperis see ex 1and 2 attached hereto this is not a rehearing this appeal was dismissed without prejudice. See ex 3and 4 attached hereto court order also see ex 3 attached hereto the court stated Appellant has 60 days after the bankruptcy case is resolved.

#### CONCLUSION

Appellant asks this honorable court to reinstate both appeals. Appeals NO. 71680 and Appeals NO. 72379. Under his Forma Pauperis that was granted to him by the Eighth Judicial District Court See exs 1,2,3,4 attached hereto APPELLANT IS INDIGENT and has no money to pay for reinstatement of his appeals. Appellant asks this honorable court to apply his Forma Pauperis status for the reinstatement.

Dated August 9,2017

Executed at 4657 Swaying Ferns Dr

Las Vegas Nevada 89147

By Robert Holmes III

X 

**CERTIFICATE OF SERVICE BY MAILING**

I ROBERT HOLMES III, hereby certify, pursuant to NRCP 5 ( b ), that on this 9 Day of August 2017 I mailed a true and correct copy of the foregoing Informal Brief

by placing document in a sealed pre- postage paid envelope and deposited said envelope in the United States Mail addressed to the following :

TO MARQUIS AURBACH COFFING

Micah S. Echols , ESQ

Adele V. Karoum


10001 Park Run Drive

Las Vegas, Nevada, 89145

Attorney's for Plaintiff, LVMPD

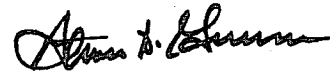
Date August 9, 2017

By Robert Holmes III

x 

COPY

Electronically Filed  
02/10/2017 09:19:10 AM



CLERK OF THE COURT

ASTA

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

LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT,

Plaintiff(s),

vs.

U.S. CURRENCY \$281,656.73,

Defendant(s),

Case No: 07A537416

Dept No: VIII

**CASE APPEAL STATEMENT**

1. Appellant(s): Robert Holmes, III
2. Judge: Douglas E. Smith
3. Appellant(s): Robert Holmes, III

Counsel:

Robert Holmes, III  
4657 Swaying Ferns Dr.  
Las Vegas, NV 89147

4. Respondent (s): Las Vegas Metropolitan Police Department

Counsel:

Adele V. Karoum, Esq.  
10001 Park Run Dr.

EX 1

Las Vegas, NV 89145

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: No

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

8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: Yes, June 21, 2012 &  
*\*\*Expires 1 year from date filed* December 27, 2016  
Appellant Filed Application to Proceed in Forma Pauperis: No  
Date Application(s) filed: N/A

9. Date Commenced in District Court: March 9, 2007

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

Type of Judgment or Order Being Appealed: Judgment

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 60547, 60809, 61094, 61616, 62264, 62274, 62357,  
71680

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 10 day of February 2017.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Robert Holmes, III

EX 1

**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

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

**Supreme Court No. 72379**  
District Court Case No. A537416

**RECEIPT FOR DOCUMENTS**

TO: Robert Holmes, III ✓  
Clark County District Attorney \ Thomas Joseph Moreo, Chief Deputy District Attorney,  
Steven B. Wolfson, District Attorney  
Marquis Aurbach Coffing \ Micah S. Echols, Adele V. Karoum  
Steven D. Grierson, Eighth District Court Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

02/16/2017      Appeal Filing Fee waived. In Forma Pauperis.

02/16/2017      Filed Notice of Appeal/Proper Person. Appeal docketed in the  
Supreme Court this day.

DATE: February 16, 2017

Elizabeth A. Brown, Clerk of Court  
lh

EX 2

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT HOLMES, III, Appellant, vs. LAS VEGAS METROPOLITAN POLICE DEPARTMENT, Respondent.	ROBERT HOLMES, III, Appellant, vs. LAS VEGAS METROPOLITAN POLICE DEPARTMENT, Respondent.
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No. 71680 ✓

**FILED**

JUL 05 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Yane  
DEPUTY CLERK

No. 72379

*ORDER DISMISSING APPEALS*

These are pro se appeals from an order granting summary judgment in a civil forfeiture (Docket No. 71689) and an order granting a motion for attorney fees and costs. (Docket No. 72379.) Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Respondent has filed a "Suggestion of Bankruptcy" in both appeals, informing this court that appellant has filed a bankruptcy petition under Chapter 7 of the Bankruptcy Code in the District of Nevada, Case No. 17-12300-led. A copy of the bankruptcy petition is attached to respondent's notice.

The filing of a bankruptcy petition operates to stay, automatically, the "continuation" of any "judicial. . . action. . . against the debtor." 11 U.S.C. § 362(a)(1). An appeal, for purposes of the automatic stay, is considered a continuation of the action in the trial court. Consequently, an appeal is automatically stayed if the debtor was the defendant in the underlying trial court action. *See Ingersoll-Rand Financial Corp. v. Miller Mining, Co. Inc.*, 817 F.2d 1424 (9th Cir. 1987).



It appears that appellant was a defendant below. Therefore, these appeals are stayed pursuant to the automatic stay provisions of federal bankruptcy law.


Given the applicability of the automatic stay, these appeals may linger indefinitely on this court's docket pending final resolution of the bankruptcy proceedings. Accordingly, we conclude that judicial efficiency will be best served if these appeals are dismissed without prejudice. Because a dismissal without prejudice will not require this court to reach the merits of these appeals and is not inconsistent with the primary purposes of the bankruptcy stay—to provide protection for debtors and creditors—we further conclude that such dismissal will not violate the bankruptcy stay.<sup>1</sup> See *Independent Union of Flight Attendants v. Pan American World Airways, Inc.*, 966 F.2d 457, 459 (9th Cir. 1992) (holding that the automatic stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of the statute [11 U.S.C. §362(a)]”); *Dean v. Trans World Airlines, Inc.*, 72 F.3d 754, 755 (9th Cir. 1995) (holding that a post-bankruptcy petition dismissal will violate the automatic stay “where the decision to dismiss first requires the court to consider other issues presented by or related to the underlying case”). Accordingly, we dismiss these appeals. This dismissal is without prejudice to the parties’ rights to move for reinstatement of these appeals upon

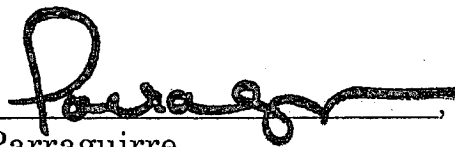
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<sup>1</sup>The automatic stay provides a debtor “with protection against hungry creditors” and gives him a “breathing spell from its creditors” by stopping all collection efforts. *Dean v. Trans World Airlines, Inc.*, 72 F.3d 754, 755 (9th Cir. 1995). Further, it assures creditors “that the debtor's other creditors are not racing to various courthouses to pursue independent remedies to drain the debtor's assets.” *Id.* at 755-6.

either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if either of the parties deems such a motion appropriate at that time.

It is so ORDERED.<sup>2</sup>

, J.  
Hardesty

, J.  
Parraguirre

, J.  
Stiglich

cc: Hon. Douglas Smith, District Judge  
Robert Holmes, III  
Marquis Aurbach Coffing  
Liesl K. Freedman  
Matthew J. Christian  
Eighth District Court Clerk

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<sup>2</sup>Any motion to reinstate this appeal must be filed within 60 days of entry of the order lifting the stay or concluding the bankruptcy proceedings. We deny as moot respondent's motions to dismiss these appeals.

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 71680

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

No. 72379 ✓

**FILED**

JUL 05 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DISMISSING APPEALS*

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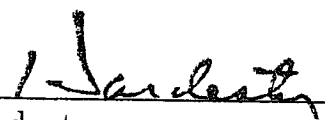
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either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if either of the parties deems such a motion appropriate at that time.

It is so ORDERED.<sup>2</sup>

, J.  
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Stiglich

cc: Hon. Douglas Smith, District Judge  
Robert Holmes, III  
Marquis Aurbach Coffing  
Liesl K. Freedman  
Matthew J. Christian  
Eighth District Court Clerk

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**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

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

**Supreme Court No. 72379**  
District Court Case No. A537416

**INSTRUCTIONS/NOTICE REGARDING DEADLINES**

TO: Robert Holmes, III ✓  
Marquis Aurbach Coffing \ Adele V. Karoum  
Marquis Aurbach Coffing \ Micah S. Echols  
Clark County District Attorney \ Steven B. Wolfson, District Attorney  
Clark County District Attorney \ Thomas Joseph Moreo

**PLEASE CAREFULLY REVIEW THE INFORMATION BELOW REGARDING  
REQUIREMENTS FOR THIS APPEAL.**

**Definitions/Terms**

"NRAP" stands for Nevada Rules of Appellate Procedure, which govern procedure in the Nevada Supreme Court and Nevada Court of Appeals.

"Pro se" refers to a party acting on his or her own behalf without the assistance of an attorney.

"In forma pauperis" refers to a party who has been determined by a court to be indigent and not required to pay filing fees. Only a court can grant a party in forma pauperis status. Please see NRAP 24 for more information.

Copies of all documents sent to the court for filing must also be served on all other parties in the appeal. Such service should be made at the same time the document is sent for filing, and may be accomplished by mailing a copy of the document to the other party (if the other party has an attorney, the document should be mailed to the attorney). Please see NRAP 25(b) and NRAP 25(c). The rules do not require that copies served on other parties be file-stamped by the court.

**Required Documents/Deadlines**

**1. Transcript Request Form**

Within 15 days, appellant(s) must file in this court either (1) a transcript request form requesting transcripts of all district court proceedings that are necessary for the

17-05627

EX 5

court's review on appeal; or (2) a certificate that no transcripts are being requested. See NRAP 9. The enclosed blank transcript request form may be used.

APPELLANTS WHO HAVE NOT BEEN GRANTED IN FORMA PAUPERIS STATUS must serve a copy of the transcript request form on the court reporter/recorder who reported the proceedings and on all other parties to the appeal and must also pay an appropriate deposit to the court reporter/recorder at the time of service. NRAP 9(b)(1)(B). Upon receiving a transcript, the party who requested it must file a copy of the transcript in this court. NRAP 9(b)(1)(B).

APPELLANTS WHO ARE IN FORMA PAUPERIS should not serve a transcript request form on the court reporter/recorder, but should still file the request in this court; the court will review the request and enter an appropriate order.

## **2. Docketing Statement**

Within 20 days, all appellant(s) must file in this court a docketing statement that complies with NRAP 14. The enclosed blank docketing statement may be used.

FOR APPELLANTS WHO ARE IN FORMA PAUPERIS, the requirement that supporting documents be attached to the docketing statement may be waived.

## **3. Brief or Informal Brief Form**

Within 120 days, appellant(s) must file in this court either (1) a brief that complies with the requirements in NRAP 28(a) and NRAP 32; or (2) the "Informal Brief Form for Pro Se Parties" provided by the supreme court clerk. NRAP 31(a)(1). Failure to file a brief or informal brief form by the deadline may result in dismissal of the appeal. NRAP 31(d)(1).

## **Appendices/record**

Pro se parties are not permitted to file an appendix to their briefs unless ordered to do so by this court. NRAP 30(i). If the court's review of the complete trial court record is necessary, the court will direct the district court to transmit the record. Pro se parties are not required to cite the record in their briefs, but are encouraged to do so if possible. See NRAP 28(e)(3).

## **Responses to Pro Se Documents**

Opposing parties are not required to respond to documents, including briefs, filed by a pro se party unless ordered to do so by this court. The court generally will not grant relief without providing an opportunity to file a response. See NRAP 46(c).

DATE: February 16, 2017

Elizabeth A. Brown, Clerk of Court

17-05627

EX 5

By: Linda Hamilton  
Deputy Clerk

Notification List

Electronic

Marquis Aurbach Coffing \ Adele V. Karoum

Marquis Aurbach Coffing \ Micah S. Echols

Paper

Robert Holmes, III ✓

Clark County District Attorney \ Steven B. Wolfson, District Attorney

Clark County District Attorney \ Thomas Joseph Moreo

17-05627

EX 5