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

FILED

JUN 23 2017

In Re: Matter of)

Case No. 73031

JAMES A. COLIN, ESQ.)

Nevada Bar No. 6257)

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

VERIFIED OBJECTION TO
INCOMPETENT, DISHONEST, AND ILLEGAL
SHAM PROCEEDING OF THE STATE BAR OF NEVADA

COMES NOW attorney James A. Colin, and hereby files this
Opening Brief pursuant to SCR 105(3) objecting to the sham
proceeding that was inexplicably allowed to illegally proceed,
resulting in this Supreme Court case. See correct Nevada
Supreme Court Case No. 72628. The Nevada Supreme Court, without
ruling or explanation, failed to take any action whatsoever on
Petitioner James A. Colin's Petition for Writ of Prohibition and
Motion to Stay, and, not surprisingly, the resulting silently-
allowed farce was even worse and more illegal than predicted:
An intentionally and outrageously dishonest sham proceeding.

United States Constitution; U.S.C.A. Const. Amend. V, XIV.

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JURISDICTIONAL STATEMENT

This is a void Bar matter that was dishonestly, illegally, and unconstitutionally conducted without a referral, grievant, victim, actual jurisdiction, real authority, or a lawfully appointed Panel. ROA; EXHIBIT 1; EXHIBIT 2. The controlling law was deliberately concealed from the sham tribunal by Bar Counsel, and basically none of the applicable rules were followed by the State Bar of Nevada at any time throughout the entire proceeding. SCR; DRP; RPC 3.3. The Nevada Supreme Court is authorized to review and dismiss the sham proceeding below pursuant to SCR 105(3). The Supreme Court issued its "Notice of Briefing Schedule" on May 15, 2017, and the Objection/Opening Brief was timely filed on June 14, 2017.

ROUTING STATEMENT

This matter is to be retained, heard, and decided by the Nevada Supreme Court pursuant to NRAP 17 and the inherent authority of the Nevada Supreme Court in the regulation and discipline of Nevada attorneys. See Nevada Constitution.

STATEMENT OF THE ULTIMATE ISSUE

Will the Nevada Supreme Court respect and affirm, or reject and overrule, the existing law of the Nevada Supreme Court as decided by the specially-appointed three-Justice panel consisting of District Court Judges Berry, Gregory, and Stockard?

Indeed, the Nevada Supreme Court currently holds that Mark Gibbons' March 25, 2014 and September 17, 2014 documents are void and illegal, which affirmatively renders the entire Bar Complaint and proceeding against James A. Colin false, wrong, illegal, and without foundation. EXHIBIT 1; ROA 3-149. The instant case must be dismissed unless the Nevada Supreme Court expressly overrules the December 14, 2016 Nevada Supreme Court decision in case #57959. EXHIBIT 1; SCR 7; U.S.C.A. Const. Amend. V, XIV.

INTRODUCTION & SUMMARY

The mere existence of this case is a legal travesty. See Petition for Writ of Prohibition and Motion to Stay filed in Nevada Supreme Court Case No. 72628. Despite (or because of) the fact that every single NRAP 8 consideration favored a Stay, the Nevada Supreme Court refused to even rule on Petitioner's Motion to Stay the State Bar's planned illegal sham proceeding. Id. The Court's silent inaction completely disregarded the Motion to Stay, rendered the meritorious motion moot, and tacitly allowed the State Bar of Nevada to openly break the law, outrageously lie to its illegally hand-picked sham tribunal, and knowingly violate virtually all of the rights of James A. Colin. U.S.C.A. Const. Amend. V, XIV; Nevada Supreme Court Rules ("SCR"); State Bar of Nevada Disciplinary Rules of Procedure as adopted by the Board of Governors on July 9, 2014 ("DRP"); Nevada Rules of Professional Conduct Rule 3.3 ("RPC 3.3") (Candor Toward the Tribunal).

The State Bar of Nevada (and more importantly Mark Gibbons) intentionally broke the law. In spades. ROA; SCR 7; DRP; RPC 3.3; See EXHIBIT 1 (December 14, 2016 Nevada Supreme Court Order striking Mark Gibbons' illegal and void orders - NOT contained in ROA and illegally-concealed from tribunal by Bar Counsel who deceptively pretended that Order did not exist).

1 The direct result is that this entire matter is a sham and a
2 legal disgrace: unfair, void, illegal, unconstitutional, and
3 the product of proven willful judicial misconduct. ROA;
4 EXHIBIT 1; EXHIBIT 2; U.S.C.A. Const. Amend. V, XIV; SCR 7.

5 Indeed, the still-pending Petition for Writ of Prohibition
6 filed in Supreme Court Case No. 72628 exposes the instant case
7 as moot and void, and proves that this case should be
8 immediately dismissed on that basis, and a Writ of Prohibition
9 issued directing the State Bar of Nevada to halt, arrest,
10 dismiss, and forever end Southern Nevada Disciplinary Board case
11 #SG-14-1231. It is hereby requested that the Court rule on the
12 Petition, before addressing the instant case, because it renders
13 this case moot. See pending Petition for Writ of Prohibition
14 filed in Nevada Supreme Court Case No. 72628.

15 16 17 18 **LEGAL ARGUMENT** 19

20 For Bar matters, the applicable Nevada Supreme Court
21 standard of review for all conclusions of law is *de novo*. SCR
22 105(3). The findings of fact in this case also should receive
23 *de novo* review under the old rules as the Complaint was filed in
24 April 2015, and the rule changed in December 2015. A *de novo*
25 review is fortuitous and extra helpful here as Mr. Sheets
26 apparently didn't exercise much care while drafting the
27
28

1 findings, and the Bar openly lied to the entire Hearing Panel
2 throughout the sham proceeding. In his first two (2) findings
3 of fact, Thomas Sheets was wrong by five (5) years and five (5)
4 days, respectively, while most importantly, as a direct result
5 of Bar Counsel concealment and deception, Mr. Sheets also
6 falsely claimed it was the Nevada Supreme Court who filed an
7 order on September 12, 2014, when actually it was *Mark Gibbons*
8 who committed willful misconduct in office by unilaterally
9 drafting, signing, and filing an illegal void document on
10 September 17, 2014. RPC 3.3; EXHIBIT 1; ROA 247, lines 11-18.
11
12

13 I.

14 15 THE ENTIRE CASE IS VOID 16 AS THE UNCONSTITUTIONAL PRODUCT 17 OF WILLFUL JUDICIAL MISCONDUCT

18 No grievance or referral or victim exists in this case.
19 EXHIBIT 1 of the Bar Complaint against James A. Colin is a copy
20 of Mark Gibbons' illegally-filed September 17, 2014 void
21 document that was never lawful, is not a referral, is not a
22 grievance, and was never a Nevada Supreme Court order. ROA 18-
23 20; SCR 7; EXHIBIT 1. This is a legal FACT, although Bar
24 Counsel lies and lies repeatedly throughout, falsely claiming
25 and unconstitutionally pretending to this very day that "James
26 Colin was referred to the State Bar of Nevada by the Nevada
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Supreme Court." See State Bar's Case Summary for ROA; EXHIBIT
1; ROA Volume I (Complaint) 4,9,12; ROA Volume II (Hearing)
284-286, 291-292, 299. U.S.C.A. Const. Amend. V, XIV.

But, actually, in truth, the Nevada Supreme Court itself,
comprised of a specially-appointed three (3) Justice panel,
GRANTED both of Petitioner's 2014 Motions to Strike Justice
Gibbons' outrageously illegal and bogus "orders" because Gibbons
committed willful misconduct in office by illegally drafting
them, and his bogus signed documents were NEVER legitimate
Nevada Supreme Court Orders but, in fact, are illegal and void
with absolutely no legal effect whatsoever:

Having considered appellant's arguments,
we conclude that relief is warranted.
See SCR 7(5) (providing that a chief justice
who is disqualified or voluntarily recuses
himself from participation in the decision of
any litigated matter is also prohibited from
undertaking any administrative action in the
case). Therefore, we grant appellant's motions
and direct the clerk to strike the March 25, 2014
order and the September 17, 2014, order.

EXHIBIT 1; SCR 7(16); See, e.g. In re C.M.A., 306 Ill.App.3d
1061, 1067 (1999) (a disqualified judge's orders entered after
his disqualification are void and have no legal effect).

But, nevertheless, the State Bar of Nevada has completely
ignored the real law, illegally maintained to this day its
known-to-be-false assertions in its erroneous Complaint against
James A. Colin, and intentionally concealed the actual

1 controlling law from its illegally hand-picked sham tribunal,
2 infra. See entire ROA, Volume I & Volume II. Indeed, due to
3 Bar Counsel misconduct and deceit, the ROA lacks a copy of, or
4 any reference whatsoever to, the December 14, 2016 Nevada
5 Supreme Court Order which is the controlling law in this case,
6 and was required to be disclosed by Bar Counsel. RPC 3.3.

7
8 Justice Gibbons' September 17, 2014 document (EXHIBIT 1 of
9 the Bar Complaint) is worthless, useless, despicable trash. Id.
10 It doesn't even legally exist. EXHIBIT 1; U.S.C.A. Const.
11 Amend. V, XIV; 46 Am.Jur.2d Judgments § 29 (2006) ("Moreover,
12 all proceedings founded on the void judgment are themselves
13 regarded as invalid."); See also Nevada Supreme Court Internet
14 Website where Justice Gibbons' illegal and void orders in Case
15 #57959 have been properly removed and will remain forever
16 invisible and unavailable. And the same is true concerning
17 Gibbons' March 25, 2014 outrageously-illegal document (EXHIBIT 5
18 of the Bar Complaint) which induced and proximately caused
19 Petitioner's later-expressed opinions that Justice Gibbons then
20 illegally complained about in his void September 17, 2014 trash.
21 Thereby, Gibbons' two void orders completely created the case
22 against Petitioner, and form the entire illegal unconstitutional
23 foundation for the void State Bar of Nevada Southern Nevada
24 Disciplinary Board case #SG-14-1231. The case is void, and must
25 be dismissed. EXHIBIT 1; U.S.C.A. Const. Amend. V, XIV.
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II.

THE STATE BAR OF NEVADA VIOLATED JAMES COLIN'S DUE PROCESS RIGHTS IN A MYRIAD OF ADDITIONAL WAYS

A.

A FORMAL HEARING PANEL ILLEGALLY REFUSED TO ISSUE A REQUIRED WRITTEN DECISION AFTER IT FAILED TO COERCE AN APOLOGY FROM PETITIONER.

Even assuming the first appointed Panel Chair Jeffrey G. Sloane, Esq. was lawfully and properly randomly appointed to the case in June, 2015, which remains an open question based on the repeated illegal actions of the Bar throughout, Mr. Sloane's Hearing Panel (which also included Ellen J. Bezian, Esq. and William M. Holland) failed to properly do its job and never filed a written decision after the September 10, 2015 Formal Hearing over which it presided, a blatant violation of the rules which denies notice, review, and appeal rights, violates due process, and in this case prevented any possible judicial review of an arguable First Amendment compelled speech violation. U.S.C.A. Const. Amend. I, V, XIV; ROA 197-202; DRP Rule 22 (now rule 15); DRP Rule 39 (new rule 32); SCR 103(6)(c); SCR 105(2)(e) ("The hearing panel shall render a written decision within 30 days of the conclusion of the hearing.").

1 Here, the Hearing Panel tried to unconstitutionally coerce
2 Petitioner to apologize to Mark Gibbons and the rest of the
3 Nevada Supreme Court by refusing to approve the conditional plea
4 deal involving a three (3) month suspension unless Petitioner
5 agreed to be a lying parrot and author dishonest and bogus
6 insincere apologies to all of the Court's members. This is akin
7 to blackmail, but could not and cannot be intelligently
8 challenged in any legitimate fashion because after Petitioner
9 refused to agree to the Panel's speech demands, the Panel/Bar
10 refused to document its coercive actions in any manner, despite
11 the rules. Id. Nevertheless, it is at least alleged here that
12 SCR 113(1) is unconstitutional to the extent it allows a hearing
13 panel to try and coerce an apology from an accused Bar member,
14 as happened here. U.S.C.A. Const. Amend. I, V, XIV.

17 In any case, without a written decision and order from the
18 Hearing Panel, the Panel's duties are not complete, and there is
19 not an official legal record of what occurred¹ during, and what
20 must occur as a result of, the hearing. Therefore, all
21 subsequent unilateral actions of the State Bar lacked authority
22 and jurisdiction, and Petitioner's due process rights have been
23 seriously and irreparably violated. Id.; U.S.C.A. Const.
24 Amend. V, XIV.

28 ¹ A transcript of the September 10, 2015 Formal Hearing was
likewise never filed or otherwise provided to Petitioner.

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THE STATE BAR SECRETLY, AND WITHOUT ANY
AUTHORITY OR EXPLANATION WHATSOEVER,
UNILATERALLY NON-RANDOMLY HAND-PICKED AND
MANIPULATED VARIOUS HEARING PANEL CHAIRS
UNTIL IT ILLEGALLY HAND-PICKED THOMAS SHEETS.

In this case, the State Bar of Nevada has illegally manipulated the Hearing Panel appointment process, and without any authority has unilaterally hand-picked its desired Panel Chair choices. Numerous "Panel Chairs" have been non-randomly appointed, secretly appointed, unilaterally un-appointed, suspiciously un-filed, and ultimately hand-picked, all illegally without any explanation whatsoever - at the whim of the State Bar. ROA 170, 201, 203, 213, 215; EXHIBIT 2; U.S.C.A. Const. Amend. V, XIV; DRP Rule 4(a) ("The selection of the presiding hearing panel chair shall be a random assignment by disciplinary board chair"). The State Bar of Nevada's refusal to follow any of the Hearing Panel Chair selection rules has denied Petitioner, as a matter of law, a fair tribunal. In re Murchison, 349 U.S. 133, 75 S.Ct. 623 (1955) ("A fair trial in a fair tribunal is a basic requirement of due process."); Withrow v. Larkin, 421 U.S. 35, 46, 95 S.Ct. 1456, 1464 (1975); Stivers v. Pierce, 71 F.3d 732, 741 (9th Cir. 1995) (a fair tribunal requires a fair and impartial adjudicator).

1 After no written decision was filed in September 2015,
2 supra, and without any apparent authority, the State Bar went
3 "looking for a panel chair" (ROA Vol. II p. 266) and found two.
4 The State Bar unilaterally quickly filed two (2) different
5 Hearing Panel Chair appointment orders, back to back, a month
6 apart, whereby amazingly, against all odds², the two law partners
7 George Kelesis and Mark Bailus were both randomly appointed to
8 Petitioner's case in October 2015 and November 2015. DRP Rule
9 4(a); ROA 201-202; EXHIBIT 2.

11 Either that, or they each were illegally hand-picked by the
12 Board Chair and not randomly appointed, which seems much more
13 likely, considering the mathematical probabilities involved, and
14 the (unbelievably "coincidental") fact that George Kelesis had
15 already appeared in the case months before, on July 29, 2015, as
16 the "settlement discussions" attorney for this case. DRP Rule
17 23(b); ROA 172.

19 So, odds are, Kelesis and then Bailus were both illegally
20 hand-picked and appointed for some unwritten, unknown, and
21 undisclosed secret reason (ROA 201-202; EXHIBIT 2), and then
22 there was a long unilateral undisclosed delay by the State Bar
23 for some unknown secret reason, and then for another secret
24

25
26 2 Using basic probability mathematics, and properly assuming
27 between 50 and 60 attorneys on the panel were deemed by the
28 Bar to be eligible to serve on the case, the odds against
Kelesis and Bailus both being randomly appointed to be the
Hearing Panel Chair in this case are in the neighborhood of
3000 to 1. DRP Rule 4(a); ROA 201-202; EXHIBIT 2.

undisclosed unknown reason more panel chairs were unilaterally appointed by the Bar without any real authority or explanation (ROA 203-204, 213-216), while none of the unilaterally discarded panel chairs were ever actually lawfully challenged by the Bar in any fashion, and none of the controlling rules were ever followed by the Bar for anything at any time. See, e.g. DRP Rule 4(a); DRP Rule 4(a)(2) (challenges "shall be made as soon as possible" in the form of "motion to the chair"); DRP Rule 20(b); SCR 105(2).

During the sham hearing in this case, Bar Counsel even admitted that Mark Bailus was first appointed and then (illegally) unilaterally replaced by the State Bar. ROA Vol. II p. 267 lines 13-15 ("so we replaced him."). But Bar Counsel neglected to mention how and why and under what authority Kelesis was unilaterally chosen, or unilaterally replaced by Bailus. And where is the order showing Bailus was "assigned" to this case, as Bar Counsel confirmed?? ROA Vol. II p. 267, line 13. Shockingly, Mark Bailus' signed appointment order is nowhere to be found in the entire ROA, deceptively concealed from the record just like the December 14, 2016 Nevada Supreme Court Order that was never revealed to this sham tribunal. EXHIBIT 1; EXHIBIT 2. Actually Bailus' appointment order was illegally unilaterally un-filed from the case by the State Bar after Petitioner refused to accept Bar Counsel's express option

1 to choose between two illegally-appointed Panel Chairs, Mark
2 Bailus or Joshua Dickey. ROA 203-204; EXHIBIT 2. This is very
3 suspicious, to say the least, and is evidence of lying,
4 cheating, and an obvious due process violation. U.S.C.A. Const.
5 Amend. V, XIV. What were the grounds to unilaterally remove and
6 un-file Bailus, after Petitioner was expressly given the express
7 option by Bar Counsel to choose Bailus as his (illegal) Hearing
8 Panel Chair??? Ultimately, Luke Puschnig, Disciplinary Board
9 Chair, refused to address any requested motions concerning the
10 illegal panel chair appointment situation (despite SCR 103(5)),
11 and Puschnig "nevertheless" illegally named Thomas Sheets as the
12 latest Panel Chair. ROA 213-214. Then Puschnig again illegally
13 hand-picked Thomas Sheets as the Panel Chair, this time from
14 among the four (4) currently-serving panel chairs. EXHIBIT 2;
15 ROA 170, 201, 215-216 ("IT IS ALSO ORDERED that all previous
16 Panel Chair appointments are rescinded or cancelled."). The
17 whole outrageous and totally unexplained and unauthorized
18 situation irreparably violates due process because the State Bar
19 of Nevada is intentionally violating virtually all of the rules
20 that have been specifically established to adhere to due process
21 requirements and thereby ensure the always absolutely essential
22 fair and impartial adjudicator. Id.; DRP Rule 4; DRP Rule 20;
23 DRP Rule 22; DRP Rule 39; SCR 103(6)(c); SCR 105(2); U.S.C.A.
24 Const. Amend. V, XIV.

C.

**THE STATE BAR KNOWINGLY AND INTENTIONALLY
CONCEALED THE REAL CONTROLLING LAW FROM ITS
ILLEGALLY HAND-PICKED SHAM TRIBUNAL.**

Actually, the State Bar of Nevada's rule-breaking and intentionally-illegal actions and deception throughout this case are what really constitute professional misconduct here. RPC 3.3 (Duty of Candor Toward the Tribunal); SCR; DRP. To honestly respect the law, the Nevada Supreme Court should refer the matter to the president of the State Bar and the Board of Governors for investigation and determination of whether the imposition of discipline against Bar Counsel is appropriate for the intentionally-illegal acts and deception in this case. Id.; SCR 104; See also ARGUMENT II.B, supra; ARGUMENT II.D., infra.

Bar Counsel's deception and lack of candor to the tribunal is persistent, obvious, extreme, and continuing. ROA Volume I (Complaint) 4,9,12; ROA Volume II (Hearing) 284-286, 291-292, 299. Bar Counsel's lies irreparably destroyed the entire proceeding, even if the proceeding had some actual lawful foundation and legitimacy in the first place, which it, of course, never did, supra. RPC 3.3; See EXHIBIT 1 - deceptively absent from the ROA. First in the Complaint, and then during the sham hearing, Bar Counsel illegally conceals, lies about, and ignores the controlling Nevada Supreme Court law. To this

1 very day, Bar Counsel falsely claims and illegally represents
2 that the illegal actions, willful misconduct, and void documents
3 of Mark Gibbons are actually legal, lawful, and proper orders of
4 the Nevada Supreme Court. See State Bar's Case Summary for ROA;
5 EXHIBIT 1; ROA Volume I (Complaint) 4,9,12; ROA Volume II
6 (Hearing) 284-286, 291-292, 299. U.S.C.A. Const. Amend. V, XIV.
7

8 When the Supreme Court's December 14, 2016 order was filed
9 in Nevada Supreme Court case #57959, the 2015 Bar Complaint
10 against Petitioner was rendered ineffective and affirmatively
11 erroneous as a matter of law. EXHIBIT 1; ROA 3-149. At least
12 paragraphs 3, 8, 9, and 12 are objectively wrong and erroneous
13 after December 14, 2016, but the Nevada Supreme Court did
14 nothing in response, never altered its knowingly false
15 assertions, and just deceptively pretended as if nothing
16 whatsoever had changed. As a result, the Bar's materially-
17 erroneous Complaint blatantly lied to the tribunal and cannot
18 form the foundation for discipline against James Colin. EXHIBIT
19 1. The objectively-bogus Bar Complaint along with the State
20 Bar's overwhelming deceit and concealment throughout the entire
21 sham hearing, eliminates virtually any possibility of the
22 existence of the required "clear and convincing" evidence to
23 support a discipline finding. In re Stuhff, 108 Nev. 629, 634
24 (1992). All of the evidence was unclear and deceitful, and no
25 charge meriting discipline has been proven. Id.; In re Miller,

1 87 Nev. 65, 68 (1971). Id. The Hearing Panel was totally
2 deceived and induced into making a glaring and fatal material
3 mistake in its finding of fact #2, which is totally erroneous,
4 and controls this matter. ROA 247, lines 14-18. No matter
5 what, the case must be dismissed. Id.; U.S.C.A. Const. Amend.
6 V, XIV.
7

8 One final example forcefully illustrates the extreme
9 dishonesty, outrageous deception, and insane hypocrisy of the
10 State Bar of Nevada in this case. **The State Bar of Nevada**
11 **intentionally lied to the hearing panel in an effort to get**
12 **James Colin disciplined for telling the truth!** ROA Vol. II p.
13 291-292. Seriously! Id. During the sham hearing, Bar Counsel
14 Phil Pattee was going through the various admitted documents (at
15 least two of which were void) and supposedly "proving" his case
16 by example. ROA Vol. II p. 291, line 16 ("These can go on and
17 on and on.") Then, immediately after his "on and on" statement
18 Bar Counsel announces as his latest example of "misconduct" the
19 following: "This is Mr. Colin's motion filed April 7, 2014.
20 It's a motion to strike an order denying motion to disqualify
21 based on willful and (un)constitutional misconduct by Chief
22 Justice Mark Gibbons." ROA Vol. I p.71 lines 18-23; ROA Vol.
23 II p. 291, lines 18-22. Then, one of the panel members even
24 gets confirmation of the exact lines that Bar Counsel is
25 claiming constitutes an example of James Colin's alleged Bar
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1 misconduct: "No. 18 through 23." ROA Vol. I p.71 lines 18-23;
2 ROA Vol. II p. 292, line 5. Bar Counsel confirms the line
3 numbers, "Yes" and proceeds to the the next deceptively alleged
4 example of alleged misconduct. ROA Vol. II p. 292, line 6.

5 But wait! Bar counsel intentionally failed to ever mention
6 to the hearing panel that his latest supposed example of
7 misconduct (Bar Complaint Exhibit #6) was actually a completely
8 truthful and meritorious motion that was GRANTED by the Nevada
9 Supreme Court. EXHIBIT 1; ROA Vol. I. 70-79; ROA Vol. II p.
10 291-292. Likewise, Bar Complaint Exhibit #8 is also a
11 completely truthful and meritorious motion that was GRANTED by
12 the Nevada Supreme Court. EXHIBIT 1; ROA Vol. I. p. 126-141.
13 It was indeed proved that Mark Gibbons did commit willful and
14 unconstitutional judicial misconduct against James Colin and his
15 *pro bono* death penalty client Charles Randolph. Id.; ROA Vol.
16 I. p. 70-79; Scheuer v. Rhodes, 416 U.S. 232, 94 S.Ct. 1683
17 (1974); U.S.C.A. Const. Amend. V, XIV.

21 But Bar Counsel never bothered to tell the panel that
22 indisputable legal fact. Bar Counsel just lied through his
23 teeth and claimed to the panel that the truthful and already-
24 granted Nevada Supreme Court motion was actually an example of
25 misconduct. ROA Vol. I p.70-79; ROA Vol. II p. 291-292;
26 EXHIBIT 1. Bar Counsel's actions are an unconstitutional
27 disgrace. RPC 3.3; U.S.C.A. Const. Amend. V, XIV.

D.

AS ICING ON THE CAKE, THE ONLY WITNESS
CALLED BY THE STATE BAR OFFERED FALSE
TESTIMONY UNDER OATH AGAINST JAMES A. COLIN,
AND THEN THE STATE BAR REFUSED TO TAKE ANY
REMEDIAL MEASURES AFTER IT LEARNED OF THE
FALSITY OF THE OFFERED TESTIMONY.

James A. Colin's official SCR 79 phone number as reported
to the Nevada State Bar is 702-521-6316. That is an
indisputable fact, and Petitioner has had the same phone number,
accurately listed on the front of every one of his filed Court
pleadings, for as long as he can remember - at least a full
decade. Again, James A. Colin's SCR 79 phone number is 702-521-
6316, and that number has been in uninterrupted service for at
least ten(10) years. That's the fact.

But the State Bar Hearing Paralegal somehow managed to
falsely testify three (3) different times in front of the
hearing panel that James Colin's SCR 79 phone number was 702-
531-6316, and that his phone number is no longer in service.
ROA Vol. II, p. 263-264. Mr. Sheets seized on that testimony
from the State Bar and as a result the panel likely
(legitimately) concluded that James Colin had shirked his SCR 79
duties and probably abandoned his law practice. Id. Then the
Hearing Paralegal was sworn in, and confirmed that her earlier

1 unsworn (incorrect) testimony was correct. ROA Vol. II, p. 271.
2 Then eight (8) pages later, she testified that "I just attempted
3 the SCR 79 phone number that we have for him. That (702) 531-
4 6316 number. . . . (702) 531-6316 is no longer in service." ROA
5 Vol. II, p. 279-280.

6 The Bar proceedings concluded at 10:53 a.m. on April 6,
7 2017. ROA Vol. II, p. 311. For the record, on April 6, 2017,
8 James A. Colin received one (1) phone call from the State Bar of
9 Nevada (702-382-2200) at his actual SCR 79 (702-521-6316) phone
10 number. The call was received at 1:49 p.m., and the State Bar
11 did not leave a message. Thus, it is contended upon information
12 and belief that the State Bar learned of its false testimony a
13 few hours after the sham hearing, but failed to properly take
14 any reasonable remedial measures. RPC 3.3(a)(3).
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CONCLUSION

"Justice must satisfy the appearance of justice." Offutt v. United States, 348 U.S. 11, 14 (1954). But it does not here where the Bar proceeding below was deceptively conducted without a lawful foundation and obviously "failed to represent the impersonal authority of law," Offutt v. United States, 348 U.S. at 15. The sham hearing was nothing but a pathetic joke. ROA; U.S.C.A. Const. Amend. V, XIV.

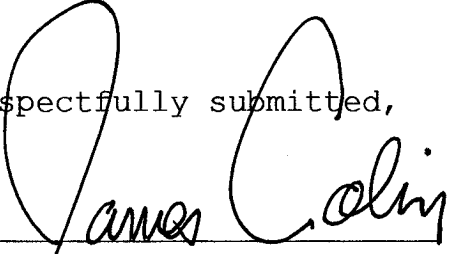
Now, this Nevada Supreme Court needs to finally do the right thing in this case, personally disavow the "willful misconduct in office" and void orders of Mark Gibbons, and forever end the unconstitutional State Bar proceeding against Petitioner. EXHIBIT 1; SCR 7; U.S.C.A. Const. Amend. V, XIV.

There exists no foundation whatsoever to support a State Bar of Nevada disciplinary action against member James A. Colin. There exists no referral, there is no victim, there is no grievant, and there is no jurisdiction. There is no honest evidence, and there never was a lawful proceeding in the first place. Id. This blatantly illegal farce must be finally ended now. This case must be dismissed, and the earlier-requested

1 Writ of Prohibition should be promptly issued against the State
2 Bar of Nevada. U.S.C.A. Const. Amend. V, XIV.

3 **DATED** this 19th day of June, 2017.

4
5 Respectfully submitted,

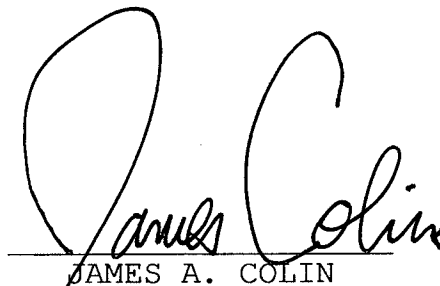
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9 JAMES A. COLIN, ESQ.
10 Nevada Bar No. 6257
11 2540 S. Maryland Pkwy. #175
12 Las Vegas, NV 89109
13 (702) 521-6316
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VERIFICATION

AFFIDAVIT OF ATTORNEY JAMES A. COLIN

Under penalties of perjury, the undersigned declares that he is the attorney who filed the Opening Brief in this matter objecting to the incompetent, dishonest, and illegal sham proceeding of the State Bar of Nevada. Undersigned is entitled to relief, and has drafted and read the Brief and knows the contents thereof; that the Brief/Objection and all facts contained therein are true of his own knowledge, except as to those matters stated on information and belief, and that as to such matters he believes them to be true.

DATED this 19th day of June, 2017.



JAMES A. COLIN

CERTIFICATE OF COMPLIANCE

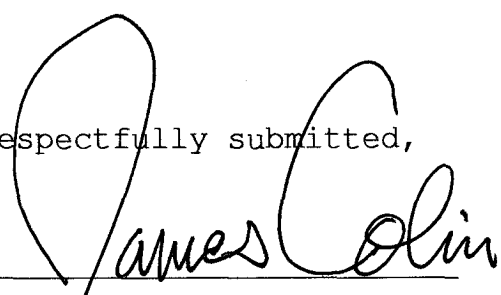
I hereby certify that this Objection/Opening Brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), the type style requirements of NRAP 32(a)(6), and the type volume requirements of NRAP 32(a)(7) because it has been prepared with Open Office word processor in

1 a monospaced typeface, Courier New, 12 Point, and contains 5076
2 words.

3 I hereby certify that I have read this Objection/Opening
4 Brief, and to the best of my knowledge, information and belief,
5 it is not frivolous or interposed for any improper purpose. I
6 further certify that this Objection/Opening Brief complies with
7 all applicable Nevada Rules of Appellate Procedure, in
8 particular Nevada Rule of Appellate Procedure 28(e)(1), which
9 requires every assertion in the brief regarding matters in the
10 record to be supported by a reference to the page and volume
11 number, if any, of the transcript or appendix where the matter
12 relied upon is to be found. I understand that I may be subject
13 to sanctions in the event that the accompanying
14 Objection/Opening Brief is not in conformity with the
15 requirements of the Nevada Rules of Appellate Procedure.
16
17
18

19 **DATED** this 19th day of June, 2017.

20
21
22 Respectfully submitted,

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24 
25 JAMES A. COLIN, ESQ.
26 Nevada Bar No. 6257
27 2540 S. Maryland Pkwy. #175
28 Las Vegas, NV 89109
(702) 521-6316

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STATE BAR OF NEVADA
Bar Counsel
3100 W. Charleston Blvd., Suite 100
Las Vegas, NV 89102

James Colin

(Signature)

EXHIBIT 1

EXHIBIT 1

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES LEE RANDOLPH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57959

FILED

DEC 14 2016

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

ORDER GRANTING MOTIONS TO STRIKE

This is an appeal from a district court order denying appellant's second postconviction petition for a writ of habeas corpus in a death penalty case. On March 16, 2011, Justice Douglas voluntarily recused himself from participating in the case because he presided over Randolph's death penalty trial when he was a district court judge. On May 16, 2011, Randolph filed separate motions to disqualify Justices Gibbons and Cherry.¹ On July 27, 2011, Justices Gibbons and Cherry voluntarily recused themselves.²

¹These motions were based on the fact that the challenged justices, when they were on the district court bench, provided affidavits as to the good professional character and ethics of Deputy District Attorney William Kephart. The affidavits were submitted to the Supreme Court as part of Kephart's response to an order entered in Randolph's direct appeal. Kephart was ordered to show cause as to why he should not be sanctioned for statements made during closing argument at Randolph's trial.

²The record indicates both justices participated in Randolph's first postconviction appeal. *See Randolph v. State*, Docket No. 46864 (Order of Affirmance, March 13, 2008). The panel's review of that appeal indicates
continued on next page . . .

On January 24, 2014, the four remaining justices—Chief Justice Parraguirre, Justice Hardesty, Justice Pickering, and Justice Saitta (now retired)—entered an order affirming the district court’s judgment. See *Randolph v. State*, Docket No. 57959 (Order of Affirmance, January 24, 2014). On February 14, 2014, appellant filed a petition for rehearing and a motion to disqualify the justices who decided appellant’s second postconviction appeal. On March 25, 2014, then Chief Justice Gibbons denied the motion for disqualification on procedural grounds—it was untimely pursuant to NRAP 35(a)(1). On April 7, 2014, appellant filed a motion to strike the order entered on March 25, 2014. On April 22, 2014, appellant filed a renewed motion for disqualification of all the justices.³ On September 17, 2014, this court entered a one-judge order signed by Chief Justice Gibbons denying appellant’s motion to strike the March 25, 2014, order and the renewed motion to disqualify.

On September 30, 2014, appellant filed a motion to strike the September 17, 2014, order.⁴ On May 4, 2016, appellant filed a motion for

... continued

Randolph, who was represented by the same counsel as in this appeal, did not file a motion to disqualify Justices Gibbons and Cherry in that case even though the grounds asserted for their disqualifications in this case were available at the time of the first postconviction appeal.

³Contemporaneously with the renewed disqualification motion, appellant filed a notice of letter to the Governor requesting the appointment of three judges to hear Randolph’s appeal.

⁴Contemporaneously with the motion to strike, appellant filed a notice of demand to the Nevada Commission on Judicial Discipline for immediate intervention and discipline in Randolph’s case.

ruling and demanded a "legitimate lawful ruling" on the petition for rehearing and his motion to strike the court's September 17, 2014, order.

On July 22, 2016, Chief Justice Parraguirre and Justices Hardesty, Saitta, and Pickering entered an order recusing themselves from deciding appellant's September 30, 2014, motion to strike because it implicated the previous motion to disqualify. The order also directed the clerk of court request the designation of three judges to decide the motion to strike and, if the motion to strike is granted, to reconsider the motion to disqualify Chief Judge Parraguirre and Justices Hardesty, Saitta, and Pickering. On September 21, 2016, by executive order, the Governor appointed District Court Judges Berry, Gregory, and Stockard.

Appellant's motions to strike the March 25, 2014, order and the September 17, 2014, order challenge then Chief Justice Gibbons' authority to rule on the disqualification motion in light of his previous voluntary recusal from participation in the case. Having considered appellant's arguments, we conclude that relief is warranted. See SCR 7(5) (providing that a chief justice who is disqualified or voluntarily recuses himself from participation in the decision of any litigated matter is also prohibited from undertaking any administrative action in the case). Therefore, we grant appellant's motions and direct the clerk to strike the March 25, 2014, order and the September 17, 2014, order.

It is so ORDERED.

Berry, D. J.
Berry

Stockard, D. J.
Stockard

Gregory, D. J.
Gregory

cc: James A. Colin
Attorney General/Carson City
Clark County District Attorney

EXHIBIT 2

EXHIBIT 2

1 CASE Nos. SG14-1231

2
3 **STATE BAR OF NEVADA**

4 **SOUTHERN NEVADA DISCIPLINARY BOARD**

5 STATE BAR OF NEVADA,
6 Complainant,

**ORDER APPOINTING
MARK BAILUS, ESQ, AS CHAIR
FOR HEARING**

7 vs.

8 JAMES COLIN, ESQ
9 N.V. Bar No. 9469
10 Respondent.

11
12 IT IS HEREBY ORDERED that the following member of the Southern
13 Nevada Disciplinary Board has been designated to Chair the Hearing Panel that
14 will be convened in the above-entitled matter at a date and time to be determined,
15 and which hearing will be convened at the offices of the State Bar of Nevada, 3100
16 West Charleston Boulevard, Suite 100, Las Vegas, Nevada 89102.

17
18 1. Mark Bailus, Esq. Chair

19
20 Dated this 11th day of November, 2015.

21 **STATE BAR OF NEVADA**

22
23 JEFFREY S. POSIN, ESQ.

24 Nevada Bar No.: 06457

25 Chairman

26 Southern Nevada Disciplinary Board
27
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