

ORIGINAL

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

2017 SEP 8 PM 3:54

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

* * *

In Re: Matter of)
JAMES A. COLIN, ESQ.)
Nevada Bar No. 6257)

Case No. 73031

FILED

SEP 14 2017

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

APPELLANT'S REPLY BRIEF
TO STATE BAR OF NEVADA'S
(NON-) ANSWERING BRIEF

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

STATE BAR OF NEVADA
PHILLIP J. PATTEE, ESQ.
Nevada Bar No. 4021
3100 W. Charleston Blvd. #100
Las Vegas, NV 89102
(702) 382-2200

Petitioner/Appellant

Respondent

SEP 08 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

17-30937

TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION.....	1
LEGAL ARGUMENT.....	2
I. NO WRITTEN DECISION.....	3
II. THE STATE BAR JUST LIES & LIES & LIES.....	5
A. THE STATE BAR OF NEVADA LIES TO THE COURT ABOUT THE PROCEDURAL HISTORY OF THE CASE.....	7
B. THE STATE BAR OF NEVADA LIED TO ITS SHAM TRIBUNAL AND NOW LIES TO THE COURT ABOUT THE LAW.....	9
III. THIS PROCEEDING HAS HORRIBLY "failed to represent the impersonal authority of law."	10
CONCLUSION.....	13
VERIFICATION.....	14
CERTIFICATE OF COMPLIANCE.....	14
CERTIFICATE OF MAILING.....	16

INTRODUCTION

This Reply Brief addresses the State Bar of Nevada's "Answering" Brief which intentionally and completely failed to respond to any of Petitioner's valid legal arguments, and thereby conceded and admitted all of Petitioner's many indisputably proven contentions. United States Constitution; U.S.C.A. Const. Amend. I, V, XIV; Nevada Rules of Professional Conduct Rule 3.3 ("RPC 3.3") (Candor Toward the Tribunal); NRAP 31(d)(2); Turner v. State, 383 So.2d 489, 491 (Miss. 1980) ("failure to respond is tantamount to confession of error and will be accepted as such."). The State Bar of Nevada apparently believes it is above the law, lies and omits throughout its entire submitted document, responds to none of Petitioner/Appellant's meritorious contentions, and openly refuses to recognize, acknowledge, or obey the indisputable actual law of the Nevada Supreme Court - and the United States of America. See ANSWERING BRIEF; EXHIBIT 1 of OPENING BRIEF = 12/14/16 ORDER GRANTING MOTIONS TO STRIKE in Nevada Supreme Court Case #57979; SCR 7; U.S.C.A. Const. Amend. I, V, XIV. The State Bar of Nevada just expects and relies upon its Corporate parent, the Nevada Supreme Court, to kindly ignore and validate all of its pervasive unconstitutional misconduct and intentional lawbreaking. Id.

1 The State Bar's "Answering" Brief is totally unresponsive
2 and answers nothing. Id.; RPC 3.3; NRAP 31(d)(2). Contrary
3 to the State Bar's obvious and repeated lies, every contention
4 offered by Petitioner throughout the entire Opening Brief is
5 properly raised and fully supported by the record which is
6 extensively and properly cited. In addition to discussion of
7 the unconstitutionally-missing written decision, the only items
8 offered "outside" the record are the two(2) exhibits to the
9 Opening Brief which were unconstitutionally hidden from the
10 hearing panel and absent from the ROA solely because of the
11 dishonesty and professional misconduct of Bar Counsel. RPC 3.3.
12
13

14 **LEGAL ARGUMENT**

15
16 During its fraudulent sham 2017 hearing against Petitioner,
17 the State Bar of Nevada (1) proceeded without jurisdiction or
18 authority using a Complaint filled with proven lies and
19 dishonest/void exhibits, (2) offered false testimony under oath
20 against Petitioner, and (3) blatantly lied about the facts and
21 the law to its illegally hand-picked sham tribunal. ROA Volume
22 I pp. 3-149, 201-216, 234-235; ROA Volume II pp. 263-264, 267,
23 271, 279-280, 284-299; EXHIBIT 1 of OPENING BRIEF (omitted from
24 ROA due to professional misconduct of Bar Counsel); RPC 3.3.
25
26 Yet none of the above clearly demonstrated and proven facts was
27 deemed worthy of any comment or rebuttal whatsoever by Bar
28

1 Counsel in its "answering" brief. So now - everything is
2 undisputed, in addition to being indisputable. U.S.C.A. Const.
3 Amend. I, V, XIV; OPENING BRIEF; ANSWERING BRIEF.

4
5 I.

6 **NO WRITTEN DECISION**

7
8 The easiest fact demanding the immediate dismissal of this
9 void 2017 joke/farce/sham is the undisputed fact that the
10 required written decision was never filed¹ by the 2015 Formal
11 Hearing Panel in this case. ROA Volume I pp. 193-202; DRP Rule
12 22 (now rule 16); DRP Rule 39 (new rule 34); SCR 103(6)(c);
13 SCR 105(2)(e) ("The hearing panel shall render a written decision
14 within 30 days of the conclusion of the hearing"). U.S.C.A.
15 Const. Amend. I, V, XIV. The absence of any 2015 written
16 decision in the ROA is part of the record and final proof of the
17 State Bar of Nevada's blatantly illegal and unconstitutional
18 Star Chamber prosecution of this void matter. Id. Jurisdiction
19 does not exist, due process has been intentionally violated and
20 ignored, and the State Bar of Nevada doesn't even attempt any
21 excuse or explanation. See ANSWERING BRIEF (no mention
22 whatsoever of this properly raised issue); United States
23 Constitution; U.S.C.A. Const. Amend. I, V, XIV; Goldberg v.
24 Kelly, 397 U.S. 254, 271 (1970); Alderson v. Gilmore, 13 Nev.
25
26
27
28 1 Not even a transcript of the unconstitutional September 2015
Formal Hearing was ever filed.

1 84, 85 (1878) ("the findings of the [tribunal] cannot be
2 considered unless they are included"). In truth, and
3 indisputably as far as the legal record before this appellate
4 Court is concerned, the September 10, 2015 Formal Hearing in the
5 case below was never lawfully held, and the required written
6 decision was never filed by the hearing panel. ROA Volume I pp.
7 193-202; SCR 105(2)(e) ("The hearing panel shall render a
8 written decision within 30 days of the conclusion of the
9 hearing"). Notably, in the case below, Petitioner/Appellant
10 never waived any of his rights, and never made any appearance²
11 after September 10, 2015. U.S.C.A. Const. Amend. I, V, XIV.
12 Procedurally, the case below remains at exactly the same place
13 it was two(2) years ago. ROA Volume I pp. 199-202. Except now,
14 the required written decision is twenty-three (23) months late,
15 the case has finally been proven void by the Nevada Supreme
16 Court itself, and the State Bar of Nevada tries to overcome
17 these mere facts by just ignoring/pretending/lying about them.
18
19 See EXHIBIT 1 of OPENING BRIEF = 12/14/16 ORDER GRANTING MOTIONS
20 TO STRIKE in Nevada Supreme Court Case #57979. The State Bar of
21 Nevada simply expects its Corporate parent, the Nevada Supreme
22 Court, to kindly ignore, validate, and endorse all of its
23 pervasive unconstitutional misconduct and lawbreaking. Id.
24
25
26
27
28

2 Except telephonic Special Appearances to contest jurisdiction.

II.

THE STATE BAR JUST LIES & LIES & LIES

The false allegations in the always-bogus Bar Complaint against James A. Colin have been finally officially proven as false, illegal, and void by the Nevada Supreme Court itself, yet the State Bar of Nevada openly refuses to respect that legal fact. Id.; SCR 7; ANSWERING BRIEF. On December 14, 2016 a specially-appointed body of the Nevada Supreme Court finally ruled on Petitioner's September 30, 2014 Motion to Strike, after the Motion had been pending for more than two(2) full years. See EXHIBIT 8 of Bar Complaint - ROA Volume I pp. 126-141. The Supreme Court also ruled on the April 7, 2014 Motion to Strike that that had years ago been illegally denied through the willful judicial misconduct of disqualified Mark Gibbons. See EXHIBIT 6 of Bar Complaint - ROA Volume I pp. 70-79. Both Motions to Strike were GRANTED, and Gibbons' bogus "orders" were finally exposed as indisputably void and illegal. See EXHIBIT 1 of OPENING BRIEF = 12/14/16 ORDER GRANTING MOTIONS TO STRIKE in Nevada Supreme Court Case #57979.

Hallelujah! The Nevada Supreme Court on 12/14/16 finally obeyed the law and ruled to be true exactly what Petitioner had been openly and repeatedly asserting for years while trying to save his death-sentenced client, since well before day #1 of

1 this still-ongoing unconstitutional nightmare/farce. Id.; See,
2 e.g. ROA Volume I pp. 71-79, 127-141; See also Verified Answer
3 filed July 17, 2015 - ROA Volume I pp. 159-169, ¶¶ 3, 8, 11
4 ("Mark Gibbons' action signing any March/September 2014 'Order'
5 in case #57959 was blatantly wrong, totally illegal, completely
6 unauthorized, and 100% ineffective, resulting in only a VOID
7 order under United States law."). But, although the State Bar
8 of Nevada's allegations against James A. Colin in the Bar
9 Complaint have been affirmatively exposed as false by official
10 ruling of the Nevada Supreme Court, the State Bar of Nevada,
11 nevertheless, refuses to even acknowledge, let alone respect,
12 the law! See ANSWERING BRIEF pp. 1-3, 10-13; ROA Volume 1 pp.
13 3-149.

14
15
16 Instead of obeying the law, the State Bar of Nevada openly
17 rejects due process, dishonestly maintains its knowingly false
18 allegations in its intentionally erroneous Bar Complaint, lies
19 to the Court and its illegally hand-picked sham tribunal, and
20 now attempts to unconstitutionally railroad Petitioner by not
21 arguing the law, but instead just relying on the Nevada Supreme
22 Court to kindly validate and endorse all of its lies and
23 pervasive unconstitutional lawbreaking. Id.

24
25
26 The State Bar of Nevada's behavior in this case is not that
27 of a lawyer with integrity, but a fearless liar with a lawless
28 mandate. ROA Volume I pp. 18-20; See also ARGUMENT III, infra.

A.

**THE STATE BAR OF NEVADA LIES TO THE COURT ABOUT
THE PROCEDURAL HISTORY OF THE CASE**

The State Bar of Nevada claims: "Appellant made various objections to the Panel Chairs appointed in this matter, which were heard and denied by the Chair of the Southern Nevada Disciplinary Board, Luke Puschnig. *Id.* at 00215-00216." ANSWERING BRIEF p. 3. But this claim is an outrageously false outright fabrication! ROA Volume I pp. 213-216 (IT IS ALSO ORDERED that all previous Panel Chair appointments are rescinded or cancelled."). Nothing whatsoever was "heard and denied" by Puschnig, as his orders themselves reveal by making no such claim. *Id.* Indeed, Bar Counsel Phil Pattee identically lied to his sham tribunal when he falsely told them: "We had to go through several motions and hearings and appointments -- Mr. Colin objected, filed various objections." ROA Volume II p. 267, lines 19-21. But where is any proof of the Bar's outrageously false assertions?? Where in the record are these alleged various filed motions/objections that Puschnig heard and ruled on??? Nowhere. No motions were ever filed. ROA Volumes I & II. In truth, Luke Puschnig specifically refused to hear any motions and "nevertheless" without any authority whatsoever illegally unilaterally hand-picked Thomas Sheets to be designated "panel chair" from among the four(4) then-serving

1 panel chairs. ROA Volume I pp. 170, 201, 213, 215; See pending
2 Verified Petition for Writ of Prohibition, Nevada Supreme Court
3 Case #72628; Verified OPENING BRIEF p. 11 & EXHIBIT #2.

4 Ultimately, it appears Bar Counsel just made up this
5 outrageous lie to pretend for the Supreme Court and the sham
6 tribunal that Petitioner actually received some semblance of due
7 process below. ROA Volume II p. 264 ("Because actually what
8 we're doing here is talking to the Supreme Court."). But in
9 reality, James A. Colin did not receive due process, as the
10 actual truthful record clearly and repeatedly reveals. ROA;
11 U.S.C.A. Const. Amend. I, V, XIV. This intentional lack of due
12 process from the State Bar of Nevada, and Bar Counsel's repeated
13 lawlessness and lies concerning due process, are exactly why a
14 Writ of Prohibition was/is so necessary in this case. Id.

15 Bar Counsel follows up his whopper of a lie with another
16 falsehood/omission when he claims "An Initial Case Conference
17 was held on November 21, 2016." ANSWERING BRIEF p. 3. In fact,
18 Petitioner made a very brief telephonic Special Appearance to
19 contest the jurisdiction and authority of illegally-appointed
20 Thomas Sheets, but quickly disconnected the phone call after it
21 became apparent that Petitioner had been misled by the Bar, and
22 that Sheets was present to obstruct truth, not to address any of
23 the controlling jurisdictional issues. See Case #72628, pending
24 Verified Petition for Writ of Prohibition, footnote #5. That's
25
26
27
28

1 what really happened, but Bar Counsel never bothers to mention a
2 Special Appearance, and not surprisingly, Sheets has no
3 recollection whatsoever of what actually happened. ROA Volume
4 II p. 268 ("Oh.").

5
6 **B.**

7 **THE STATE BAR OF NEVADA LIED TO ITS SHAM TRIBUNAL**
8 **AND NOW LIES TO THE COURT ABOUT THE LAW**

9 It is astonishing how much dishonesty is packed into the
10 State Bar of Nevada's 13 page non-responding brief. ANSWERING
11 BRIEF. The lies and omissions begin on line 14 of page 1, and
12 continue unabated until line 6 of page 13 when Bar Counsel has
13 the audacity to invoke the "integrity of the bar." See, e.g.
14 RPC 3.3(a); RPC 3.3(d) (no exception to integrity during trial
15 *in absentia*); ROA Volume II pp. 291-292.

17 The State Bar of Nevada sets the tone and begins its Brief
18 by playing dumb with an outright lie:
19

20 **it appears that Appellant is demanding that this**
21 **Court void its prior orders and essentially dismiss**
any disciplinary proceedings against him.

22 ANSWERING BRIEF p.2 (emphasis added).

23 Indeed, this ignorant Bar statement alone proves that the
24 State Bar of Nevada doesn't understand the case or respect the
25 law, and that this disgracefully bogus sham it is illegally
26 prosecuting must be finally dismissed by the Supreme Court.
27

28 EXHIBIT 1 of OPENING BRIEF = 12/14/16 ORDER GRANTING MOTIONS TO

1 STRIKE in Nevada Supreme Court Case #57979; SCR 7; U.S.C.A.
2 Const. Amend. I, V, XIV.

3 Here is the actual truth:

4 **The Nevada Supreme Court has already recognized**
5 **and stricken the void "orders" of Mark Gibbons**
6 **and THE LAW demands that any disciplinary proceedings**
against James A. Colin be dismissed.

7 Id. Enough said, finally.

8
9 **III.**

10
11 **THIS PROCEEDING HAS HORRIBLY**
12 **"failed to represent the impersonal**
13 **authority of law."**

14 This entire matter was caused by a lawless act, and must
15 now finally be dismissed with a Nevada Supreme Court
16 renunciation of lawlessness. ROA Volume I pp. 18-20, 67-69;
17 EXHIBIT 1 of OPENING BRIEF = 12/14/16 ORDER GRANTING MOTIONS TO
18 STRIKE in Nevada Supreme Court Case #57979; SCR 7; U.S.C.A.
19 Const. Amend. I, V, XIV; Offutt v. United States, 348 U.S. 11,
20 15 (1954). Bar Counsel's loyalty is totally misguided is this
21 unique case, and is not impersonal. The State Bar of Nevada
22 lacks the courage and integrity to respect the truth and argue
23 the real law to its parent, the Nevada Supreme Court. ANSWERING
24 BRIEF. The State Bar is petrified to do or say anything that
25 might anger its parent, so it has ultimately made the cowardly
26 and calculated determination to dishonestly pretend and
27
28

1 represent that the law is different than it really is. Id.;
2 ROA. Bar Counsel fights for its job, and against the law. Id.
3 As a result, the entire Bar proceeding has been an
4 unconstitutional sham and a disgrace, and a total waste of time.
5 U.S.C.A. Const. Amend. I, V, XIV. Any fair-minded Jurist would
6 agree.
7

8 Now, the State Bar has completed its illegally-assigned
9 task: The Fix is in. ROA Volume I pp. 18-20. Id. This case
10 unconstitutionally exists, and the Nevada Supreme Court is
11 finally free to do whatever it wants. SCR 105(3). But really,
12 the Nevada Supreme Court has no legal power to do anything
13 except dismiss this farce. See pending Verified Petition for
14 Writ of Prohibition, Nevada Supreme Court Case #72628. Even if
15 the Nevada Supreme Court somehow now overrules its December 14,
16 2016 Order, the hearing was still void, dishonest, and
17 unconstitutional at the time it was held, and its illegally
18 hand-picked members were expressly lied to and prevented from
19 making an honestly informed decision. ROA Volume I pp. 199-202;
20 ROA Volume II pp. 284-299. There is no legal way the Court can
21 retroactively legitimize that illegal proceeding that was based
22 upon false evidence and resulted in a totally dishonest panel
23 decision. ROA Volume I pp. 244-251; U.S.C.A. Const. Amend. I,
24 V, XIV; SCR 105(2)(e). Accepting this process would entirely
25 bypass due process, and the need for an honest panel decision,
26
27
28

1 as the panel could be openly lied to, as it was here, and the
2 Supreme Court's *de novo* opinion later simply substituted. SCR
3 105; U.S.C.A. Const. Amend. V, XIV.

4 Petitioner's conduct "cannot fairly be considered apart
5 from that of the" Nevada Supreme Court, but it was never
6 lawfully considered by anyone, and Mark Gibbons' and the State
7 Bar's "infusion of personal animosity" against Petitioner has
8 resulted in the unconstitutional existence of this indisputably
9 bogus case. SCR 7; U.S.C.A. Const. Amend. I, V, XIV; Offutt
10 v. United States, 348 U.S. 11, 13-16; EXHIBIT 1 of OPENING
11 BRIEF = 12/14/16 ORDER GRANTING MOTIONS TO STRIKE in Nevada
12 Supreme Court Case #57979; Verified Petition for Writ of
13 Prohibition, Nevada Supreme Court Case #72628. Like the United
14 States Supreme Court held in Offutt, the Nevada Supreme Court
15 has no choice in this case but to remain impersonal and only be
16 concerned with "the fair administration of justice." Offutt,
17 348 U.S. at 17.
18
19
20
21

22 ///

23 ///

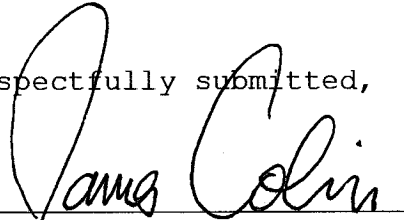
24 ///

CONCLUSION

The truth and the law must be respected. The case is void. 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. This case must be dismissed, and the pending Writ of Prohibition must be promptly issued against the State Bar of Nevada. United States Constitution; U.S.C.A. Const. Amend. I, V, XIV.

DATED this 6th day of September, 2017.

Respectfully submitted,



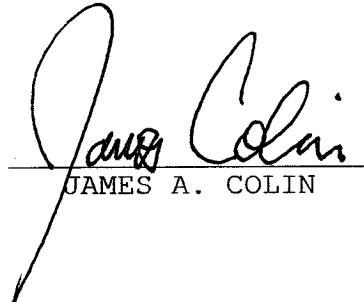
JAMES A. COLIN, ESQ.
Nevada Bar No. 6257
2540 S. Maryland Pkwy. #175
Las Vegas, NV 89109
(702) 521-6316

VERIFICATION

AFFIDAVIT OF ATTORNEY JAMES A. COLIN

Under penalties of perjury, the undersigned declares that he is the attorney who filed the Reply Brief in this matter addressing Respondent's (Non-)Answering Brief in this case. Undersigned is entitled to relief, and has drafted and read the Reply Brief and knows the contents thereof; that the Reply Brief 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 6th day of September, 2017.



JAMES A. COLIN

CERTIFICATE OF COMPLIANCE

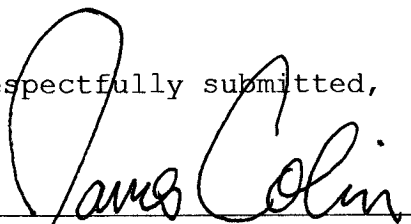
I hereby certify that this Reply Brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), the type style requirements of NRAP 32(a)(6), and the type volume requirements of NRAP 32(a)(7) because it has been prepared with Open Office word processor in

1 a monospaced typeface, Courier New, 12 Point, and contains 3067
2 words.

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

18 **DATED** this 6th day of September, 2017.

19
20
21 Respectfully submitted,

22 
23

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

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

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

James Colin

(Signature)