

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN KERRY O'KEEFE

Appellant,

vs.

THE STATE OF NEVADA, et al.

Respondent.

Supreme Court No. 73527

District Court No. PI16-1070
(ELEVENTH)

FILED

OCT 06 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY [Signature]
DEPUTY CLERK

APPELLANT'S INFORMAL BRIEF

INSTRUCTIONS: If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, see NRAP 28(k), with the Nevada Supreme Court on or before the due date, see NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

HOW TO FILL OUT THIS FORM: This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

WHERE TO FILE THE BRIEF: You may file your brief in person or by mail.

To file your brief in person: Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, or at the Regional Justice Center Clerk's Office (Drop Box), 200 Lewis Street, 17th Floor, Las Vegas, Nevada. You can file your brief Monday through Friday, 8:00 a.m. to 4:00 p.m.

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

• ACCORD HAINES v. KERNER, 404 U.S. 519, 520 (1972); Nev. Const., article 1 § 2.

17-33964

To file your brief by mail: Mail the brief to the Clerk of the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada 89701. **Your brief must be postmarked on or before the due date.**

You must file the original brief and 1 copy with the clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your brief, you must file the original form and 2 copies and include a self-addressed, stamped envelope. Documents cannot be faxed or emailed to the Supreme Court Clerk's Office.

Copies of the brief must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also include a proper certificate of service or complete the certificate that is attached to the informal brief form.

CAUTION: Pro se parties are prohibited from representing other parties. A pro se party may not complete a brief on behalf of other parties. Pro se parties may collaborate on their briefs, however, provided that if one brief is submitted on behalf of multiple pro se parties, each party must sign and date the brief to confirm that he or she has participated in the preparation of the brief and, by his or her signature, joins in the arguments and representations contained therein.

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

12/14/2016 - CASE NO. PI16-1070 (11th Jud. Dist. Court)

Filed Date	Name of Judgment or Order
07/26/2017	ORDER erroneously converted to direct case NO. C250630
07/27/2017	FINDINGS OF FACT, CONCLUSION OF LAW and Order erroneously filed under direct case no. C250630

Notice of Appeal. Give the date you filed your notice of appeal in the district court: JULY 10, 2017 (mailbox rule) Constructively Filed.

FILED by Clerk on 07/13/2017 THEN July 20, 2017 to Supreme Court Clerk.

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
PI 16-1070	Petition For Habeas Corpus Pursuant	11 th Jud. Dist. Court -
	NRS 34.360 UNDER NRS 34.500 FOR	FILED DEC 14 2016
	SIGNIFICANT JUDICIAL ERROR... 14 th Amend.	PM 2:00

Pro Bono Counsel. Would you be interested in having pro bono counsel assigned to represent you in this appeal?

☒ Yes ☐ No

NOTE: If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

O'Keefe as plaintiff, instituted for "SUMMONS" under NRS 34.360 which was filed in the 11th Judicial District Court on Dec. 14, 2016 - PM 2:00 and served to all defendant's timely by deputies (NRS 34.410) (SERVICE OF WRIT) in which DUE PROCESS of law entitled plaintiff O'Keefe produced for hearing under NRS 34.390(2) to determine the legality of process of custody as an independent action and original proceeding under habeas corpus available to every person unlawfully committed, detained, confined or restrained of "LIBERTY" to inquire into the cause.

The Court (11th Jud. Dist. Ct.) granted the summons (writ) without delay Now with the effect of writ requiring actual production of petitioner, as (NRS 34-390) plaintiff, to determine the legality of said unlawful custody and restraint. Reading O'Keefe's action and petition, clearly thereby demonstrates, specifically in accordance with NRS 34-720, that plaintiff O'Keefe never requested relief from his judgment. IN FACT, O'Keefe's petition and "prayer for relief" (see also TABLE OF CONTENTS, SECTION IV, page 2) on page 10 of said petition, (P216-1070 filed Dec 14, 2016), Verbatim see it READS: IV. PRAYER FOR RELIEF

(" Subject-matter jurisdiction can be raised at anytime and can never be waived or forfeited. This Now is the time. It may not have been SPEEDY RELIEF BUT PETITIONER UNDOUBTFULLY IS ENTITLED. ALL THOSE WHO AGREE, SAY "I," GRANT WRIT. ")

- [In the U.S. now, "writ" is superseded by "Summons."] Meaning nothing more than, GRANT the SUMMONS to serve the defendants, which occurred.

At this point, the state defendants, Lalli, Mercer, and Owens acquired, as defendants after being SERVED, Lucinda Cumber to represent them. Ms Cumber filed ex parte letter with O'Keefe stating she would file Return and Answer. (NRS 34-430) and had ex parte communication with the Court (11th Jud. Dist.) for no Notice and Appearance to participate was legally filed. O'Keefe was never afforded "Notice" and or opportunity to file his Answer to Return. (NRS 34-47). INSTEAD, Ms Cumber acting for state, suspended the Great WRIT of Habeas and further violated the Great WRIT of the U.S. which had been issued. see New Const. Art. I § 5 (U.S. Art. 2, sec. 9 cl. 2 incorporated) Ex parte Merryman, -

- 17 F. Cas. 144 (C.J. Taney (1861)) Pointing out that on the 45th day to answer, the NRS 34.360 petition was converted and transferred to the 8th Judicial Court with the direct case no. C250630 filled in by Clerk C.D.D.A. Lucinda Coumou, acting for defendants Galli, Mercer, and Owens without ever filing a true NOTICE OF APPEARANCE on the Court Record making her not a proper party to the case had made an arbitrary and capricious decision becoming a false return of the writ to only prejudice petitioner in placing cumbersome limitations on an action where these limitations only apply to a writ filed by form prescribed (NRS 34.738) to a petition defined (NRS 34.722) as a post writ (NRS 34.724). O'Keefe filed a Petition requesting a summons to issue on 12/14/2016 in the 11th Dist. Court. O'Keefe did not file a post in the 8th under NRS 34.724 on May 2, 2017 under direct case no. C250630.

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed).

Once the summons issued and petition served under the 11th Dist. Court on assigned case no. P116-1090 filed December 14, 2016 the court was required to allow O'Keefe as defendant to rebut or amend and be heard pursuant the Nevada Constitution Article 1 § 5 which also trumps but is bolstered by state statute NRS 34.470 (1) (Answer to return; summary proceedings....)

Nowhere does this Nev. Const. or NRS 34.470 read that a non-party to the case (such as C.D.D.A. Coumou) can communicate and request the 11th Judicial Court to just transfer the petition to the 8th Dist. Court to improperly "RECHARACTERIZE" without

Due Process of Law or Notice to the defendants benefit in escaping to ANSWER. PROCEDURAL INTENTIONAL VIOLATIONS are created to FALSE RETURN and SUSPEND BOTH HERE, in the instant case, the STATE GREAT WRIT, Constitutional order NR8 34.360 which had embodied the Federal GREAT WRIT (28 USC § 2241 (c)(3))¹ as the CONSTITUTIONAL WRIT pursuant U.S. Const. Article I, Section 9, Clause 2 which has been incorporated into Nevada's Constitution Article I § 5 (suspension of habeas corpus) in the first instance.

• FIRST, see O'Keefe's (OMNIBUS) MOTION FOR LEAVE OF COURT TO FILE ... FILED Sep. 18 2017, Nev. Supreme Court case NO. 73527 as docket no. 17-31457 to be incorporated here by reference in its entirety to encompass all SCOTUS and Nevada authorities and law.

• SECOND, realize that pursuant Nev. Const., Article I § 2 (paramount Allegiance) opined in Bargas v. Warden, 87 Nev 30, 31-32 (1971) U.S. Cert denied, 403 U.S. 935 (1971) holds that the Nev. Const. binds the courts of the state of Nevada to the U.S. Constitution as interpreted by U.S. Supreme Court. Therefore, as delineated in CABRO v. UNITED STATES, 540 U.S. 375 (2003) id. at 382 [16] "... a district court may not recharacterize a pro se litigant's action ... unless the court first warns the pro se litigant about the consequences of the recharacterization, thereby giving the litigant an opportunity to contest the recharacterization, or to withdraw or amend the action. See also U.S. v. SEESING, 234 F.3d 456, 463 (9th Cir. 2000) SEE ALSO - 44 GEO. L.J. ANN. REV. CRIM. PROC. 1064 (2015) citing STON v. MURASHIGE, 369 F.3d - 880, 887-888 (9th Cir. 2004) (original habeas petition treated under § 2241, not § 2254, because not in custody under valid judgment of conviction at time action filed.) There now, Nevada Courts have suspended both WRITS and we know why.

• FN1: The GREAT WRIT (9th Cir. No. 12-15271) (U.S.D.C. No. 2:11-cv-02109-GMN-VCF) has been suspended, in violation of U.S. Const., article I, section 9, clause 2 (see Ex parte Merryman, supra).

O'Keefe simply raised, in the very first instance, with the 9th Circuit he felt and believed his Constitutional Rights were being violated with the 9th Circuit issuing the GREAT WRIT ORDER which was and is attached as EXHIBIT 1 (ORDER 9th NO. 12-15271 FILED APR 13 2012) to the Original Petition involved in this action filed in the 11th Dist. Court as No. PI 16-1070 filed on Dec. 14, 2016 which action was wrongly converted and alleged to be filed by O'Keefe in the 8th Judicial Court on May 2, 2017 under direct case no. C250630.

All courts keep wrongly converting writs, thereby placing them in a different legal category to dispose of them on procedural grounds knowing very well that these petitions hold valid, cognizable, colorable claims warranting relief.

That is why the people, temporarily in the jobs they hold, come and go, but the law under the Nevada Constitution and the United States Constitution will never change unless legally amended.

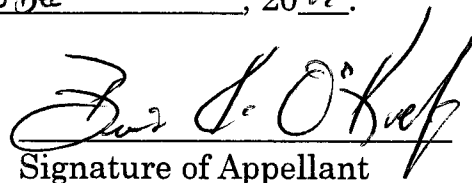
The legislative body creates the law that the executive enforces with the JUDICIAL BRANCH to impose the correct meaning of the law with FLEXIBILITY and SCRUPLES.

PROCEDURAL DUE PROCESS requires the law to be fair and equal to all which is delineated by SCOTUS in DAVIS v. SCHEER, 468 U.S. 186 (1984) (DUE PROCESS imposes constraints on governmental decisions which deprive individuals of "LIBERTY" or "PROPERTY" interests within the meaning of the DUE PROCESS Clause of the 5th and 14th U.S. Amendments) Anything less is UNCONSTITUTIONAL!

O'Keefe continually presents the fact that he had a decree, declaratory judgment under the U.S. GREAT WRIT, CONSTITUTIONAL WRIT that the Nevada Constitution has incorporated (U.S. Const. article I, sec 9, cl 2) into their own Const. Article 155.

O'Keefe had been guaranteed immunity from the third trial only until the statutory granted appeal under 28 USC - § 2253 had concluded based on an "ABNEY" appeal. This declaratory decree issued had embodied a myriad of SCOTUS authorities that the COA spelled out in black and white that jurisdiction was vested which was also properly NOTICED to all parties under 28 USC § 2252. The ACTS OF CONGRESS, 28 USC § 2241(c)(2), 28 USC § 2253, 28 USC § 2252 were all disavowed with the GREAT WRIT SUSPENDED ILLEGALLY IN VIOLATION OF THE U.S. CONSTITUTION.

DATED this 3rd day of October, 2017.


Signature of Appellant


Print Name of Appellant

Pursuant NRS 208-165; 28 USC § 1746
Brian L. O'Keefe 10-3-2017

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
☒ By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

(● By Brass Slip NO. 2278142)

Clark County District Attorney's Office

200 Lewis Avenue

P.O. BOX 552212

Las Vegas, NV 89155-2212
MVU

and
*

Original Copy to Clerk of Nev Supreme Court
(WITH 2 COPIES)
201 South Carson Street
Carson City, Nevada 89701

DATED this 3rd day of October, 2017.

Pursuant NRS 208.165 and 28 U.S.C. § 1746.

Brian K. O'Keefe
Signature of Appellant

Signature of Appellant

Brian K. O'Keefe / C.C.C.
Print Name of Appellant

Print Name of Appellant

1200 Prison Road
Address

Address

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Telephone

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