

FILED

JAN 11 2018

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

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN KERRY O'KEEFE

Petitioner/Plaintiff,

v.

The EIGHTH Judicial District
Court of the State Of Nevada, In and
For the County of Clark

Respondent/Defendant.

(S.C.N. Case No.) _____

Dept. No. _____

Docket No. _____

E.S.D.C. No. 0250630

Dept. No. XVII

see minutes Attached Dec. 20, 2017

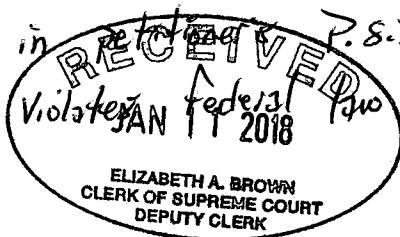
PETITION FOR WRIT OF MANDAMUS

COMES NOW, Petitioner/Plaintiff, Brian K. O'Keefe, pro per,
and respectfully moves this Honorable Court to issue a Petition for Writ of Mandamus, being filed
contemporaneously herewith, directing Judge M. Villani / Dept. 17, to reverse and vacate
his order, and/or actions in denying Petitioner/Plaintiff PRO PER Motion for Order to Have
P & P File Amended P&I (misdemeanor reflects wrongly as a felony).

This motion is made and based pursuant to the supporting Points and Authorities attached hereto,
N.R.S. 34.150 through N.R.S. 34.310, N.R.A.P., Rule 21, as well as all papers, pleadings, and
documents on file herein.

STATEMENT OF FACT

Petitioner O'Keefe was sentenced to (9) months on two counts of
criminal non-support of a dependent, in violation of Ohio Revised Code
which carrying a MAXIMUM penalty of 6, 7, 8, 9, 10, 11, or 12 months.
These two counts were ran concurrent with (53) days credit time served.
However, P & P of Nevada, listed and reported those as felonies
in petitioner's P.S.I., which greatly prejudice petitioner and
Violates Federal Law and O'Keefe's procedural due process to substantive.



18-02131

POINTS AND AUTHORITIES

1
2 A felony is defined (^{2d. ed. 2004} Black's Law Dictionary) as punishable by imprisonment
3 for more than ~~one~~ year or by death. - e.g. Fed. Rules of Evidence Rule 609(a)
4

5 Here O'Keefe was sentenced to (9) months which reflects in O'Keefe's
6 P.S.I. on pages 3 and 6, (LISTED AS A FELONY CONVICTION).
7 O'Keefe entered a WAIVER OF PLEA CASE NO. 04 CR 237 filed
8 April 29, 2005 with the JOC, called ENTRY OF SENTENCE in OFFD,
9 being filed OFFICIALLY as public record on MAY 11, 2005 AM 9:11
10

11 Prejudice now lies with obssification, yard points, 3-strike rule,
12 and any possible Parole Hearing manifesting this injustice
13 counted against O'Keefe.

14 Mandamus lies when no speedy,
15 remedy, in itself, is available.

16 O'Keefe motioned the Court with
17 a hearing held on December 20, 2017 to which the Court
18 admits it was a (9) month sentence, but still allows it
19 to read and manifest as a FELONY in my P.S.I. .
20

21 O'Keefe has a protected "LIBERTY" interest to procedural,
22 now being substantive DUE PROCESS of law in accordance
23 with the U.S. 14th Const. Amend. to Nev. Const. art. I § 8 (5)
24 (criminal due process) to have his P.S.I. reflect correct facts.

25 This Court has INHERENT AUTHORITY pursuant Nev. Const. Art. 6 § 4
26 to hear and issue the Mandamus and duty pursuant Oath
27 of Office Nev. Const. Art. 15 § 2 and Oath or Affirmation Clause
28 under U.S. Const. Art. VI, Clause 3. PRAYER, GRANT MANDAMUS.

Felony/Gross Misdemeanor

COURT MINUTES

December 20, 2017

08C250630

The State of Nevada vs Brian K O'Keefe

December 20, 2017

04:00 PM

Defendant s Pro Per Motion for Order to Have P&P File Amended
PSI

HEARD BY: Villani, Michael

COURTROOM: Chambers

COURT CLERK: Black, Olivia

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

Defendant's Pro Per Motion for Order to Have P&P File Amended PSI to Reflect Criminal Non-Support of Defendants Correctly as Misdemeanors in PSI Based on Sentence Adjudication of (9) Months Pursuant (JOC) Entry of Sentence Attached and Incorporated Here As Exhibit 1 came before this Court on the November 30, 2017 Calendar. The Court deferred its decision and now rules as follows:

The Court adopts the State's procedural history. Regardless of whether or not the Ohio conviction in question only provided for nine (9) months, it was still considered a felony. Accordingly, Defendant was properly sentenced.

Therefore, COURT ORDERED Defendant's Pro Per Motion for Order to Have P&P File Amended PSI to Reflect Criminal Non-Support of Defendants Correctly as Misdemeanors in PSI Based on Sentence Adjudication of (9) Months Pursuant (JOC) Entry of Sentence Attached and Incorporated Here As Exhibit 1 DENIED. Counsel for the State to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed-copy of the Order to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and be signed as to form and content by opposing counsel.

A status check has been set for January 30, 2018 at 8:30 a.m. for the filing of the Findings of Fact and Conclusions of Law. If the same is received prior to that date, the status check will be vacated.

NDC

01/30/18 8:30 AM STATUS CHECK: FILING OF THE FINDINGS OF FACT AND CONCLUSIONS OF
LAW

CLERK'S NOTE: The above minute order has been distributed to the District Attorney and

Brian O'keefe #90244
1200 Prison Rd
Lovelock NV 89419 //ob/12/20/17

CONCLUSION

WHEREFORE, all of the above stated reasons, Petitioner/Plaintiff respectfully requests this Honorable Court to Order Judge Villani to reverse his decision denying
to ORDER P & P to file a Amended PSI manifesting 25 misdemeanors
within a reasonable amount of time as required by N.R.S. 34.830.

DATED this 9th day of January 9, 2018

Respectfully submitted,

B. KOVAK

Petitioner/Plaintiff

CERTIFICATE OF SERVICE

I hereby certify pursuant to N.R.C.P. 5(b) that I am the Petitioner/Plaintiff in the foregoing Petition for Writ of Mandamus, and that on this 9th day of January, 2018, I did serve a true and correct copy of the above mentioned document, by giving it to a prison official at the Ely State Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

Judge M. Villani
Regional Justice Center
200 Lewis Avenue.
Las Vegas Nevada 89155
Department XVII (17)

DATED this 9th day of January, 2018

Pursuant NR8 208-165 and

28 U.S.C 8 1746

B. KOVAK #9044
Petitioner/Plaintiff

L.C.C.
1200 Prison Rd.
Carelle, NV 89419