

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

BRIAN KERRY O'KEEFE ,)

Case No. 77797

Appellant ,)

EIGHTH JUDICIAL

-VS-

DIST. COURT Case No.

A-18-783689-W

THE STATE OF NEVADA ,)

Dept. XXX

FILED

FEB 21 2019

Respondent ,)

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

MOTION TO "WITHDRAW" MOTION TO DISMISS
EXISTING APPEAL AS SCN CASE NO. 77797
... WHICH WAS FILED JAN 15 2019
BASED ON LOWER DISTRICT COURT MAKING
FALSE CLAIM HE COULD NOT MAKE SENSE
OF APPELLANT'S MOTION TO ALTER OR AMEND
JUDGMENT PURSUANT N.R.CIV.P. 59(C) THEREFORE
ORDERED MATTER TO BE TAKEN OFF CALENDAR
RESULTING IN DERELICTION AND DISGRACE OF DUTY

COMES NOW, Brian O'Keefe, appellant pro se, to humbly request this
Court to "withdraw" appellant's MOTION TO DISMISS EXISTING APPEAL
AS SCN NO. 77797..., filed January 15, 2019.

This MOTION TO WITHDRAW..., is based on the following Points
and Authorities and all papers filed.

Dated this 18th day of February 2019
pursuant NRS 208.165, by :

Respectfully Submitted,
[Signature]
Brian K. O'Keefe

Proper #90244
LOVELUCK CORP. OTC.
1200 Prison Rd.
LOVELUCK, NV. 89419

RECEIVED

FEB 21 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK
KERNER, 404 U.S. 519, 520 (1972)
Const., Article I § 2.

19-08175

POINTS AND AUTHORITIES

STATEMENT OF THE CASE

Appellant filed with "Notice of Motion" a Motion to ALTER OR AMEND JUDGMENT of 12/8/18 pursuant N.R. Civ. P. 59(e), being filed 12/24/2018 with a hearing set for 1/30/2019. This was based on the oral denial of the 12/8/2018 hearing¹ of appellant's petition for writ of coram nobis, case no. A-18-783689-W, dept. XXX, Eighth Jud. Dist. Court. However, lower district court never filed a written order.

O'Keefe had filed a Notice of Appeal thinking surely court would have entered ORDER - This Court assigned SEN Case No. 77297. O'Keefe then learned Judge scheduled hearing for Motion to ALTER or AMEND, set for 1/30/2019. O'Keefe filed Motion to Dismiss Appeal on January 15, 2019.

When hearing came on 1/30/2019, to hear Motion for 59(e) relief, the lower court stated he couldn't make sense of action.

Court simply takes action off calendar without Notice. O'Keefe wrote court clerk asking for minutes and status of hearing. Clerk sends minutes reflecting action removed from calendar. (Violation of Judicial Ethics)

CONCLUSION : Grant withdrawal of O'Keefe's Motion to ~~Dismiss~~ DISMISS APPEAL, filed 1/15/2019, so appeal can proceed once Judge enters written ORDER denying.

FN1: Appellant waited the prescribed (20) day period for the lower district court to enter the written judgment resolving any post conviction matter from the oral pronouncement denying. See NRAP 4(b)(5)(B) (... "SHALL ENTER WRITTEN ORDER...")

SCN No. 77297

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing
(check appropriate box)

☐ Opening Brief

☐ Reply Brief

☒ Motion: MOTION TO WITHDRAW MOTION TO DISMISS APPEAR

☐ Petition: FILED 1/15/2019 (SCN No. 77297)

☐ Other: _____

to the below address(es) on this 18th day of February, 2019, by
placing same in the hands of prison staff for posting in the U.S. Mail, per
Nev.R.App.P. 25: Prison slip No. 2284996

Clerk of the Court 8TH JUDICIAL
Stephen Corleone
200 Lewis Ave.
310 FLR
Las Vegas, Nevada 89155

Attorney for _____

☒ and

Clerk of the Court
Supreme Court of Nevada
201 N. Carson St.
Ste 201
Carson City, Nevada 89701

Ben K. O'Neil
Ben O'Neil # 9222
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Appellant In Pro Se