

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN KERRY O'KEEFE,)
Appellant,)
 -VS-)
THE STATE OF NEVADA, et al.)
Respondent,)

Case No. 77797

8TH JUDICIAL DIST. CASE NO. A-18-783689-M

CASE OF FIRST IMPRESSION
FILED

APR 09 2019

ELIZABETH A. BROWN
 CLERK OF SUPREME COURT
 BY D. Michael
 DEPUTY CLERK

OBJECTION TO DISTRICT COURT'S ORDER
FILED 3/25/2019 WHICH OMITS FACTS
AND REMAINS SILENT TO LEGAL FACT
THAT THE STATE COMMITTED FRAUD BY 1
THE SIMULATED FACT THAT O'KEEFE PLED
GUILTY TO COUNT 6 AND THE COURT LACKED
ANY FELONIOUS CONVICTION AS A JURISDICTIONAL
FACT THAT DID NOT EXIST TO SUSTAIN BURGLARY
AS A MISCARRIAGE OF JUSTICE BY STATE IMPEDIMENT

● SEE AFFIDAVIT OF APPELLANT

* COURT CANNOT RAISE DEFENSES FOR STATE WHO WAIVED.

COMES NOW, Brian O'Keefe, appellant proper, to humbly
 file this objection to the district court's order electronically
 filed on 3/25/2019 where O'Keefe did not receive until
 April 2, 2019 ultimately causing O'Keefe to respond by affidavit.

This action is made and based on the pleadings on file
 to place emphasis on the appellant's omitted Motion For
 JUDGMENT ON THE PLEADINGS... N.R. Civ. P. 8(d) filed 11/30/2018
 and the followings Points and Authorities by the attached affidavit.

Dated this 2nd day of April, 2019 pursuant NRS 208.165 by, Brian L. O'Keefe

APR 8 2019 IRVING HAINES V. KERNER, 404 U.S. 519, 520 (1972); N.R. Civ. P. 8

STATE FILED ON N.O.T.I.S. O'Keefe pled guilty
 to Burglary as collusion and moral turpitude.
 (SEE MORAL-WRONG DOCTRINE)

Brian O'Keefe
 LOWELL CORR. CTR.
 1200 Prison Rd.
 Lowell, Nev. 89419

LCCLL FORM 28.014

RECEIVED

APR 8 2019

Ref: [illegible]
 ELIZABETH A. BROWN
 CLERK OF SUPREME COURT
 DEPUTY CLERK

FILE/STAMP/RETURN

19-15457

STATE OF NEVADA)

) SS:

COUNTY OF PERSHING)S.C.N. CASE NO. 77797PERSHING

I, Brian Kerry O'Keefe, the undersigned, do hereby swear that all the following statements are true and correct, to the best of my own knowledge and of my own volition. Brian Kerry O'Keefe

1. My name is Brian Kerry O'Keefe.

2. I am over 18 years of age, I reside at Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 89419. I am fully competent to make this affidavit and I have personal knowledge of the facts stated herein.

3. Received ORDER "memorializing" where court admits decided on merits on 4/2/19.

4. Court omits procedural fact that O'Keefe timely filed for a Judgment on the pleadings filed 11/30/2018 and other filings, i.e. - 59(e) Motion.

5. Court omits at hearing held 12/05/2018, 9:00 AM, that the State was properly noticed with petition and no opposition was filed. Moreover, Court fails to mention O'Keefe was acquitted of all grades as felonies.
• SEE Nev. Const., Art. 15 § 3 (Count 1 Simple misdemeanor, 6 month sentence)

6. Court fails to address authorities cited which explain that a Burglary charge may be based upon an intent to commit any felony when entering a structure, where Nevada's burglary statute (Nev 205.06) specifically includes "[felonious] 'assault or battery on any person'" as a FELONY that may underlie a burglary. • SEE AGO No. 2002-15 (3/21/2002)

7. The Court fails to recognize "limitations" and time bars do not apply to expired cases and Petitions of Coram Nobis. O'Keefe is not in custody on this case. "Coram Nobis" is the last step possible in a Criminal case with a true Voidable judgment. The Court cannot raise procedural defenses that do not apply especially when the state chose not to answer.

8.) O'Keefe attached EXHIBIT 3, as a Certified FOC, is the CRUX of the entire action. O'Keefe stated clearly in his petition that he was acquitted and found "NOT GUILTY" of all felonious intent counts charged only as Counts 1, 2, 3, 4, and 5. (id page 2)

The Court states in this ORDER memorializing (id page 8) that O'Keefe was in fact found guilty of only the simple misdemeanor which does not supply felonious transferred intent to sustain the defective guilty verdict on Count 6 Burglary.

9.) The Court Omits parole was denied on 8/21/2018 based primarily on this VOIDABLE improper Burglary conviction.

10.) "THE DOCTRINE OF 'NOSCITUR A SOCIIS' provides that a word is known by the company it keeps and gathers meaning from the words around it." • see AGO No. 2002-15 (March 21, 2002)

• Attorney General's Office of Nevada (Felonious Assault or Battery)
• SEE NRS 205.060

11.) O'Keefe's FOC is a protected liberty interest under the 14th U.S. Const., Amend. and Nev. Const., Art. I § 8(3) where Count 6 was predicated on all or any felonious guilty verdict on Counts 1 to 5, which was not returned by the jury.

I declare under penalty of perjury that the foregoing is true and correct, and that this document is executed without benefit of a notary pursuant to NRS 208.165 and/or 28 U.S.C.A § 1746 as I am a prisoner to state custody.

Dated this 2nd day of April, 2019

12.) VOIDABLE Judgments can be raised at any time in the proper court that entered it.

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By K. O'Keefe
Brian Kerry O'Keefe #90246/
LOVELOCK CORR. CTZ.
1200 Prison Rd
LOVELOCK NV. 89419

S.C.N. CASE No. 77797

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: _____

☐ Petition: _____

☒ Other: OBJECTION...

to the below address(es) on this 3rd day of April, 2019, by
placing same in the hands of prison staff for posting in the U.S. Mail, per
Nev.R.App.P. 25: Briar Slip No. 2284601

Nevada Supreme Court
OFFICE OF THE CLERK
201 E. Carson Street
Suite 201
Carson City, Nevada 89701

Attorney For _____

☒ and WHEN FILED STAMPED COPY RETURNS O'Keefe
will serve copy to:

EIGHTH JUDICIAL DIST. CT.
OFFICE OF THE CLERK
200 LEWIS AVE. 3RD FLR
Las Vegas, Nevada 89158

CASE NO. A-18-783689-W

Pursuant NRS 208.165 - Don K O'Keefe
4/2/2019, by Don K. O'Keefe # 90244

Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Appellant In Pro Se