Electronically Filed
4/30/2019 11:05 AM
Steven D. Grierson
CLERK OF THE COURT

Electronically Filed
May 07 2019 11:09 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOAS

Brian Kerry O'Keefe # 90244
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

EIGHTH JUDICIAL
DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,

Plaintiff,

-vs-

BRIAN KERRY O'KEEFE

Defendant.

Case No. 08C250630

Dept. No. XVII

PURSUANT NRAP3A(b)(1)

NOTICE OF APPEAL

NOTICE IS GIVEN that ~~Plaintiff~~ Defendant, Brian Kerry O'Keefe, in pro se, hereby appeals to the Nevada Supreme Court the MOTION TO DECLARE VEXATIOUS ORDER GRANTED BY COURT 3/12/19 PURSUANT NRS 209.451(1)(d) as filed/entered on the 10th day of April, 2019, (complete if applicable) and the _____, as filed/entered on the _____ day of _____, 20____, in the above-entitled Court.

Dated this 23rd day of April, 2019.

• O'Keefe is litigious -
FN1: NDOC WROTE THE UP stating they received ORDER from Court to sanction O'Keefe yet O'Keefe has never been sent or NOTICED WITH ANY ENTRY OF ORDER (See SON case No 78405 RIGHT TO APPEAL ORDER FILED 4/5/2019 COA)
O'Keefe's actions are sound, based on legal authority & not harassing

Brian K O'Keefe # 90244
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

~~Plaintiff~~ Defendant In Pro Se

LCCLL FORM 24.060
APR 30 2019
RECEIVED
CLERK OF THE COURT

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the below address(es) on this 23rd day of April, 2019, by placing same in the U.S. Mail via prison law library staff: By Brian Slip No. 228 4600

Steven Grierson, Clerk of Court
200 Lewis Ave., 3RD FLR
Las Vegas, Nv. 89155

Brian K. O'Keefe
Brian K. O'Keefe # 90244
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE OF APPEAL filed in District Court Case No. _____ does *not* contain the social security number of any person.

Dated this _____ day of _____, 20____.

_____

Petitioner In Pro Se

Brian O'Keefe #90244
Lovelock Corr. Ctr.
1200 Prison Rd.
Lovelock, NV. 89419

Steven Ocierson, Clerk of Court
200 Lewis Ave. 3RD FLR.
Las Vegas, NV. 89155

By Brass Slip - No. 2284600
: LEGAL MAIL : "NOA"

INMATE LEGAL
MAIL CONFIDENTIAL

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APR 23 2019
LOYOLA LIBRARY

Electronically Filed
5/1/2019 1:09 PM
Steven D. Grierson
CLERK OF THE COURT

ASTA

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

STATE OF NEVADA, Plaintiff(s), vs. BRIAN KERRY O'KEEFE, Defendant(s),	Case No: 08C250630 Dept No: XVII

CASE APPEAL STATEMENT

1. Appellant(s): Brian K. O'Keefe

2. Judge: Michael Villani

3. Appellant(s): Brian K. O'Keefe

Counsel:

Brian K. O'Keefe #90244
1200 Prison Rd.
Lovelock, NV 89419

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
   Permission Granted: N/A

   Respondent(s)'s Attorney Licensed in Nevada: Yes
   Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: December 19, 2008

10. Brief Description of the Nature of the Action: Criminal

    Type of Judgment or Order Being Appealed: Writ of Habeas Corpus

11. Previous Appeal: Yes

    Supreme Court Docket Number(s): 53859, 58109, 61631, 65217, 65436, 66416, 66956, 68560, 68623, 68739, 69036, 69121, 73527, 74878, 77541, 78680

12. Child Custody or Visitation: N/A

Dated This 1 day of May 2019.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Brian K. O'Keefe

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. 08C250630

The State of Nevada vs Brian K O'Keefe

§	Location:	**Department 17**
§	Judicial Officer:	**Villani, Michael**
§	Filed on:	**12/19/2008**
§	Case Number History:	
§	Cross-Reference Case Number:	**C250630**
§	Defendant's Scope ID #:	**1447732**
§	ITAG Booking Number:	**800091294**
§	ITAG Case ID:	**996896**
§	Lower Court Case # Root:	**08F23348**
§	Lower Court Case Number:	**08F23348X**
§	Supreme Court No.:	**61631**
§		**65217**
§		**65436**
§		**66416**
§		**66956**
§		**68560**
§		**68623**
§		**69036**
§		**69121**
§		**73527**
		77541

CASE INFORMATION

Offense	Deg	Date		
1. MURDER OF THE SECOND DEGREE WITH USE OF A DEADLY WEAPON	F	01/01/1900	Case Type:	**Felony/Gross Misdemeanor**
			Case Status:	**07/31/2013 Closed**

Statistical Closures

07/31/2013 Jury Trial - Conviction - Criminal
05/05/2009 USJR Reporting Statistical Closure

DATE — CASE ASSIGNMENT

Current Case Assignment

Case Number	08C250630
Court	Department 17
Date Assigned	12/28/2008
Judicial Officer	Villani, Michael

PARTY INFORMATION

		Lead Attorneys
Defendant	**O'Keefe, Brian Kerry**	**Pro Se**
Plaintiff	**State of Nevada**	**Wolfson, Steven B** 702-671-2700(W)

DATE — EVENTS & ORDERS OF THE COURT — INDEX

EVENTS

12/19/2008	Information
12/26/2008	Criminal Bindover
12/31/2008	Document Filed

Defendant's Submission to Clark County District Attorney's Death Review Committee

01/02/2009 Reporters Transcript
Transcript of Hearing Held on December 17, 2008

01/26/2009 Petition for Writ of Habeas Corpus
Petition for Writ of Habeas Corpus or in the Alternative Motion to Preclude Prosecution from Seeking First Degree Murder Conviction Based Upon the Failure to Collect Evidence

01/27/2009 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

01/29/2009 Return to Writ of Habeas Corpus

01/30/2009 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

01/30/2009 Writ of Habeas Corpus

01/30/2009 Order

02/02/2009 Notice of Motion
Notice of Motion and Motion to Admit Evidence of Other Crimes

02/03/2009 Notice of Witnesses and/or Expert Witnesses
Notice of Witnesses and/or Expert Witnesses [NRS 174.234(1)(a)]

02/06/2009 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

02/06/2009 Opposition to Motion
Filed By: Defendant O'Keefe, Brian Kerry
Opposition to State's Motion to Admit Evidence of Other Bad Acts

02/10/2009 Stipulation and Order

02/10/2009 Amended Information

02/17/2009 Notice of Witnesses and/or Expert Witnesses
Notice of Witnesses and/or Expert Witness [NRS 174.234(1)(a)]

02/20/2009 Notice of Expert Witnesses
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Defendant's Expert Witness [NRS 174.089(2)]

03/04/2009 Motion
Defendant's Motion to Require the Court to Advise the Prospective Jurors as to the Mandatory Sentences Required if the Defendant is Convicted of Second Degree Murder.

03/04/2009 Order
Filed By: Defendant O'Keefe, Brian Kerry
Order Authorizing Contact Visit

03/04/2009 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

03/05/2009 Notice of Expert Witnesses
Notice of Expert Witnesses [NRS 174.234(2)]

03/06/2009 Notice of Witnesses
Party: Defendant O'Keefe, Brian Kerry
Notice of Defendant's Witnesses [NRS 174.234(1)(b)]

03/10/2009 Supplemental
Supplemental Notice of Witnesses [NRS 174.234(1)(a)]

03/10/2009 Order
Order Requiring Material Witness to Post Bail or be Committed to Custody

03/10/2009 Ex Parte Application
Ex Parte Application for Order Requiring Material Witness to Post Bail

03/11/2009 Supplemental
Supplemental Notice of Witnesses [NRS 174.234(1)(a)]

03/16/2009 Jury List

03/18/2009 Reporters Transcript
Transcript of Hearing Held on March 17, 2009

03/19/2009 Amended Jury List

03/20/2009 Instructions to the Jury

03/20/2009 Verdict

03/20/2009 Supplemental
Filed by: Defendant O'Keefe, Brian Kerry
Defendant's Supplemental Proposed Jury Instructions

03/20/2009 Brief
Filed By: Defendant O'Keefe, Brian Kerry
Defendant's Brief on Admissibility of Evidence of Alleged Victim's History of Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation (with knives and scissors), and Erratic Behavior

03/20/2009 Jury Instructions
Defendant's Proposed Jury Instructions

03/24/2009 Motion
Defendant's Motion to Settle Record

03/24/2009 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

04/29/2009	PSI *Pre-Sentence Investigation Report (Unfiled) Confidential*
05/04/2009	Document Filed Filed by: Defendant O'Keefe, Brian Kerry *Letters in Aid of Sentencing*
05/08/2009	Judgment of Conviction *Judgment of Conviction (Jury Trial)*
05/21/2009	Request Filed by: Defendant O'Keefe, Brian Kerry *Request for Rough Draft Transcript*
05/21/2009	Notice of Appeal (criminal) Party: Defendant O'Keefe, Brian Kerry *Notice of Appeal*
05/21/2009	Case Appeal Statement Filed By: Defendant O'Keefe, Brian Kerry
07/10/2009	Reporters Transcript *Transcript of Hearing Held on May 5, 2009*
07/10/2009	Reporters Transcript *Transcript of Hearing Held on April 7, 2009*
07/10/2009	Reporters Transcript *Transcript of Hearing Held on March 10, 2009*
07/10/2009	Reporters Transcript *Transcript of Hearing Held on February 10, 2009*
07/10/2009	Reporters Transcript *Transcript of Hearing Held on January 20, 2009*
07/10/2009	Reporters Transcript *Transcript of Hearing Held on March 20, 2009*
07/10/2009	Reporters Transcript *Transcript of Hearing Held on March 19, 2009*
07/10/2009	Reporters Transcript *Transcript of Hearing Held on March 18, 2009*
07/10/2009	Reporters Transcript *Transcript of Hearing Held on March 17, 2009*
07/10/2009	Reporters Transcript *Transcript of Hearing Held on March 16, 2009*

07/10/2009 Reporters Transcript
Transcript of Hearing Held on March 16, 2009

09/09/2009 Request
Request for Certified Transcript of Proceeding

10/14/2009 Reporters Transcript
Transcript of Hearing Held on March 16, 2009

05/06/2010 NV Supreme Court Clerks Certificate/Judgment - Reversed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Reversed and Remanded

05/24/2010 Motion
Motion for Judicial Ruling

05/24/2010 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

05/26/2010 Order for Production of Inmate
Order for Production of Inmate Brian O'Keefe, BAC # 129208

06/29/2010 Substitution of Attorney
Filed by: Defendant O'Keefe, Brian Kerry

06/30/2010 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

06/30/2010 Ex Parte Motion
Ex Parte Motion for Defense Costs

07/01/2010 Order Granting
Order Granting Ex Parte Motion for Defense Costs

07/01/2010 Receipt
Receipt of File

07/21/2010 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Other Act or Character Evidence and Other Evidence Which is Unfairly Prejudicial or Would Violate his Constitutional Rights

07/21/2010 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe to Admit Evidence Pertaining to the Alleged Victim's Mental Health Condition and History, Including Prior Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation and Erratic Behavior

07/21/2010 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Other Act or Character Evidence and Other Evidence Which is Unfairly Prejudicial or Would Violate his Constitutional Rights

07/21/2010 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe to Admit Evidence Pertaining to the Alleged Victim's Mental Health Condition and History, Including Prior Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation and Erratic Behavior

07/29/2010 Supplemental
Filed by: Defendant O'Keefe, Brian Kerry
Supplemental Notice of Defendant's Expert Witnesses [NRS 174.234(2)]

08/02/2010 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe to Suppress his Statements to Police, or, Alternatively, to Preclude the State from Introducing Portions of his Interrogation

08/02/2010 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe to Admit Evidence Showing LVMPD Homicide Detectives have Preserved Blood/Breath Alcohol Evidence in Another Recent Case

08/02/2010 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe for Discovery

08/02/2010 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe for Evidentiary Hearing on Whether the State and CCDC have Complied with their Obligations with Respect to the Recording of a Jail Visit Between O'Keefe and State Witness Cheryl Morris

08/02/2010 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

08/02/2010 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

08/02/2010 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

08/02/2010 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

08/10/2010 Opposition to Motion
State's Opposition to Motion for Evidentiary Hearing on Whether the State and CCDC Have Complied with their Obligations with Respect to the Recording of a Jail Visit Between O'Keefe and State Witness Cheryl Morris

08/10/2010 Opposition to Motion
State's Opposition to Motion to Admit Evidence Showing LVMPD Homicide Detectives Have Preserved Blood/Breath Alcohol Evidence in Another Recent Case

08/10/2010 Opposition to Motion
State's Opposition to Motion for Discovery

08/12/2010 Order
Filed By: Defendant O'Keefe, Brian Kerry
Order Authorizing Contact Visit

08/13/2010 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

08/13/2010 Reply to Opposition
Filed by: Defendant O'Keefe, Brian Kerry
O'Keefe's Reply to State's Opposition to Motion to Admit Evidence Showing LVMPD Homicide Detectives Have Preserved Blood/Breath Alcohol Evidence in Another Recent Case

08/13/2010 Supplemental
Filed by: Plaintiff State of Nevada
Supplemental Notice of Expert Witnesses [NRS 174.234(2)]

08/16/2010 Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Motion to Preclude the State from Introducing at Trial Other Bad Acts or Character Evidence and Other Evidence that is Unfairly Prejudicial or Would Violate his Constitutional Rights

08/16/2010 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion to Admit Evidence Pertaining to the Alleged Victim's Mental Health Condition and History, Including Prior Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation and Erratic Behavior.

08/16/2010 Order Shortening Time

08/16/2010 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe to Preclude Expert Testimony

08/16/2010 Ex Parte Motion
Filed By: Defendant O'Keefe, Brian Kerry
Ex Parte Motion for an Order Shortening Time

08/16/2010 Supplemental
Filed by: Defendant O'Keefe, Brian Kerry
Defendant's Supplemental Notice of Witnesses

08/16/2010 Supplemental
Filed by: Plaintiff State of Nevada
Supplemental Notice of Expert Witnesses [NRS 174.234(2)]

08/17/2010 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion to Suppress his Statements to Police, or, Alternatively, to Preclude the State from Introducing Portions of his Interrogation

08/18/2010 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Motion to Preclude Expert Testimony

08/19/2010 Amended Information
Filed By: Plaintiff State of Nevada
Second Amended Information

08/19/2010 Motion
Filed By: Attorney Palm, Patricia A.
Motion by Defendant O'Keefe to Preclude Late Noticed Expert Testimony from Dr. Dutra

08/23/2010 Proposed Jury Instructions Not Used At Trial
Defendant's Proposed Jury Instructions

08/23/2010 Order Granting
Filed By: Defendant O'Keefe, Brian Kerry
Order Granting, in Part, and Denying, in Part, Motion by Defendant O'Keefe for Discovery

08/25/2010 Jury List

09/02/2010 Verdict Submitted to the Jury But Returned Unsigned
Verdict Submitted to Jury but Returned Unsigned

09/02/2010 Instructions to the Jury

09/09/2010 Order Granting
Filed By: Defendant O'Keefe, Brian Kerry
Order Granting, in Part, and Denying, in Part, Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Other Act or Character Evidence and Other Evidence Which is Unfairly Prejudicial or Would Violate his Constitutional Rights

09/14/2010 Order Granting
Filed By: Defendant O'Keefe, Brian Kerry
Order Granting Request for Transcripts

09/14/2010 Receipt of Copy

09/14/2010 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

09/14/2010 Motion
Filed By: Attorney Palm, Patricia A.
Motion to Withdraw

09/16/2010 Order Granting
Filed By: Defendant O'Keefe, Brian Kerry
Order Granting Request for Transcripts

09/21/2010 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

09/24/2010 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe for a Reasonable Bail

09/27/2010 Opposition to Motion
State's Opposition to Defendant's Motion for a Reasonable Bail

11/06/2010 Order

11/23/2010 Recorders Transcript of Hearing
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 12, 2010

11/23/2010 Recorders Transcript of Hearing
Party: Plaintiff State of Nevada
Transcript of Hearing Held on September 1, 2010

11/23/2010 Recorders Transcript of Hearing
Party: Plaintiff State of Nevada
Transcript of Hearing Held on September 2, 2010

11/23/2010 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 17, 2010

11/23/2010 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 19, 2010

11/23/2010 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 20, 2010

11/23/2010 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 23, 2010

11/23/2010 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 24, 2010

11/23/2010 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 25, 2010

11/23/2010 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 26, 2010

11/23/2010 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 27, 2010

11/23/2010 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 30, 2010

11/23/2010 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on August 31, 2010

01/03/2011 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Improper Evidence and Argument

01/03/2011 Supplemental
Supplemental Notice of Expert Witnesses [NRS 174.234(2)]

01/03/2011 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

01/06/2011 Notice of Motion
Notice of Motion and Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to NRS 48.061

01/07/2011 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion by Defendant O'Keefe to Dismiss on Grounds of Double Jeopardy Bar and Speedy Trial Violation and, Alternatively, to Preclude State's New Expert Witness, Evidence and Argument Relating to the Dynamics or Effects of Domestic Violence and Abuse

01/12/2011 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

01/12/2011 Receipt of Copy
Filed by: Defendant O'Keefe, Brian Kerry

01/12/2011 Opposition to Motion
State's Opposition to Defendant's Motion to Preclude the State from Introducing at Trial Improper Evidence and Argument

01/13/2011 Filed Under Seal
Exhibit to the Notice of Motion and Motion by Defendant O'Keefe to Dismiss on Grounds of Double Jeopardy Bar and Speedy Trial Violation, and, Alternatively, to Preclude State's New Expert Witness, Evidence and Argument Relating to the Dynamics or Effects of Domestic Violence and Abuse (Filed Under Seal) (Sealed)

01/13/2011 Filed Under Seal
Ex Parte Application and Order to File Under Seal (Filed Under Seal) (Sealed)

01/14/2011 Supplemental
Supplemental Notice of Witnesses [NRS 174.234(1)(a)]

01/18/2011 Receipt of Copy

01/18/2011 Opposition to Motion
Defendant O'Keefe's Opposition to Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to 48.061

01/18/2011 Opposition to Motion
State's Opposition to Motion to Dismiss and, Alternatively, to Preclude Expert and Argument Regarding Domestic Violence

01/20/2011 Order Granting
Filed By: Defendant O'Keefe, Brian Kerry
Order Granting Request for Transcripts

02/04/2011 Recorders Transcript of Hearing
Party: Plaintiff State of Nevada
Transcript of Hearing Held on January 18, 2011

02/04/2011 Recorders Transcript of Hearing
Party: Plaintiff State of Nevada
Transcript of Hearing Held on January 13, 2011

02/04/2011 Recorders Transcript of Hearing
Party: Plaintiff State of Nevada
Transcript of Hearing Held on September 16, 2010

02/04/2011 Recorders Transcript of Hearing
Party: Plaintiff State of Nevada
Transcript of Hearing Held on January 20, 2011

04/08/2011 Order to Release Medical Records
Order Releasing Medical Records

04/08/2011 Ex Parte Motion
Ex Parte Motion for Release of Medical Records

04/27/2011 Order Granting
Order Granting Request for Transcripts

04/29/2011 Motion to Withdraw As Counsel
Filed By: Defendant O'Keefe, Brian Kerry

05/03/2011 Certificate of Mailing
Filed By: Defendant O'Keefe, Brian Kerry

05/19/2011 Recorders Transcript of Hearing
Party: Plaintiff State of Nevada
Transcript of Hearing Held on April 27, 2011

06/13/2011 Receipt of Copy

10/03/2011 Motion to Dismiss Counsel
Party: Defendant O'Keefe, Brian Kerry
Motion to Dismiss Appointed Counsel and for Faretta Hearing

10/26/2011 Motion
Filed By: Defendant O'Keefe, Brian Kerry
Motion to Place on Calendar

11/10/2011 Order
Filed By: Defendant O'Keefe, Brian Kerry
Order for Return of Fees

11/28/2011 Motion
Motion to Place on Calendar

11/28/2011 Motion to Withdraw As Counsel
Filed By: Defendant O'Keefe, Brian Kerry
Motion to Withdraw Counsel and Faretta Canvass

03/13/2012 Order Granting
Filed By: Plaintiff State of Nevada
Order Granting, in Part, the State's Motion to Admit Evidence of Other Bad Acts

03/16/2012 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion to Dismiss Based Upon Violation(s) of the Fifth Amendment Component of the Double Jeopardy Clause, Constitutional Collateral Estoppel and, Alternatively, Claiming Res Judicata, Enforceable by the Fourteenth Amendment Upon the States Precluding State's Theory of Prosecution by Unlawful Intentional Stabbing with Knife, the Alleged Battery Act Described in the Amended Information.

03/16/2012 Appendix
Filed By: Defendant O'Keefe, Brian Kerry
Appendix of Exhibits for; Motion to Dismiss Based Upon Violation(s) of the Fifth Amendment Component of the Double Jeopardy Clause, Constitutional Collateral Estoppel and, Alternatively, Claiming Res Judicata, Enforceable by the Fourteenth Amendment Upon the States Precluding State's Theory of Prosecution by Unlawful Intentional Stabbing with Knife, the Alleged Battery Act Described in the Amended Information.

03/21/2012 Opposition to Motion to Dismiss
Filed By: Plaintiff State of Nevada
State's Opposition to Motion to Dismiss

03/22/2012 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion to Seal Records

03/29/2012 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion to Admit Evidence of Polygraph Examination Results.

04/03/2012 Motion
Filed By: Defendant O'Keefe, Brian Kerry
Motion for Complete Rough Draft Transcript

04/05/2012 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Motion to Seal Records

04/11/2012 Order Denying Motion
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Motion to Dismiss

04/17/2012 Supplemental
Filed by: Plaintiff State of Nevada
State's Supplemental Opposition to Motion to Seal Records

04/19/2012 Filing
Filed By: Defendant O'Keefe, Brian Kerry
Filing in Support of Motion to Seal Records as Ordered by Judge

04/30/2012 Order
Filed By: Defendant O'Keefe, Brian Kerry
Order for Transcripts

05/17/2012 Supplemental
Filed by: Plaintiff State of Nevada
Supplemental Notice of Expert Witnesses [NRS 174.234(2)]

05/24/2012 Order Denying Motion
Order Denying Defendant's Motion to Seal Records & Defendant's Motion to Admit Evidence of Polygraph Examination

06/01/2012 Motion to Continue Trial
Filed By: Defendant O'Keefe, Brian Kerry

06/12/2012 Jury List

06/15/2012 Verdict

07/17/2012 Request
Request for Rough Draft Transcripts

08/01/2012 PSI
Pre-Sentence Investigation Report (Unfiled) Confidential

08/30/2012 Recorders Transcript of Hearing
Transcript of Hearing Held on December 16, 2011

08/30/2012 Recorders Transcript of Hearing
Transcript of Hearing Held on February 17, 2012

08/30/2012 Recorders Transcript of Hearing
Transcript of Hearing Held on March 29, 2012

08/30/2012 Recorders Transcript of Hearing
Transcript of Hearing Held on June 5, 2012

08/31/2012 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Notice of Appeal

09/04/2012 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

09/04/2012 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on June 15, 2012

09/04/2012 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on June 14, 2012

09/04/2012 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on June 13, 2012

09/04/2012 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on June 12, 2012

09/04/2012 Transcript of Proceedings
Party: Plaintiff State of Nevada
Transcript of Hearing Held on June 11, 2012

09/05/2012 Judgment of Conviction
Judgment of Conviction (Jury Trial)

09/13/2012 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Notice of Appeal

09/24/2012 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

11/20/2012 Request
Filed by: Defendant O'Keefe, Brian Kerry
Request for Rough Draft Transcripts

12/03/2012 Recorders Transcript of Hearing
Transcript of Hearing Held on August 16, 2012

12/03/2012 Recorders Transcript of Hearing
Transcript of Hearing Held on August 28, 2012

07/26/2013 NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed; Rehearing Denied

07/31/2013 Criminal Order to Statistically Close Case

12/06/2013 Petition for Writ of Mandamus
Filed by: Defendant O'Keefe, Brian Kerry
Petition for a Writ of Mandamus or, in the Alternative, Writ of Coram Nobis

12/06/2013 Notice of Motion
Filed By: Plaintiff State of Nevada
Notice of Motion Motion to Waive Filing Fees for Petition for Writ of Mandamus

12/06/2013 Ex Parte Motion
Filed By: Defendant O'Keefe, Brian Kerry
(Ex Parte) Motion to Appoint Counsel

12/13/2013 Ex Parte Motion
Filed By: Defendant O'Keefe, Brian Kerry
Ex Parte Motion for Reimbursement of Legal Cost of Faretta Canvassea Defendant to Above Instant Case.

12/31/2013 Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Petition for a Writ of Mandamus or in the Alternative Writ of Coram Nobis and Response to Motion to Appoint Counsel

01/13/2014 Ex Parte Motion
Filed By: Defendant O'Keefe, Brian Kerry
Ex Parte Motion for Production of Documents, (Specific) Papers, Pleadings and Tangible Property of Defendant

01/13/2014 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

01/21/2014 Ex Parte Motion
Filed By: Defendant O'Keefe, Brian Kerry
Ex-Parte Motion for Reimbursement of Incidental Costs Subsequent the Court Declaring Defendant Indigent and Granting Forma Pauperis (Confidential)

01/21/2014 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

01/27/2014 Motion to Modify Sentence
Motion to Modify and/or Correct Illegal Sentence

01/27/2014 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

01/28/2014 Order Denying
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Petition for Writ of Mandamus or, in the Alternative, Writ of Coram Nobis Order Denying Defendant's Motion to Waive Filing Fees for Petition for Writ of Mandamus Order Denying Defendant's Motion to Appoint Counsel

01/28/2014 Ex Parte Motion
Filed By: Defendant O'Keefe, Brian Kerry
Ex-Parte Motion to Extend Prison Copywork Limit

02/07/2014 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's (Ex-Parte) "Motion for Reimbursement of Incidental Costs Subsequent the Court Declaring Defendant Indigent and Granting Forma Pauperis" (Confidential)

02/24/2014 Reply to Opposition
Filed by: Defendant O'Keefe, Brian Kerry
ProSe "Reply" to State's Opposition to Defendant's (Ex-Parte) "Motion for Reimbursement of

Incidental Costs Subsequent the Court Declaring Defendant Indigent and Granting Forma Pauperis (Confidential)

02/24/2014 Motion
Filed By: Defendant O'Keefe, Brian Kerry
Motion for Judicial Notice-the State's Failure to File and Serve Response in Opposition

02/24/2014 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

02/24/2014 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Pro Per Motion to Modify and/or Correct Illegal Sentence

02/28/2014 Order Granting
Filed By: Plaintiff State of Nevada
Order Granting and Denying in Part Defendant's Ex-Parte Motion for Production of Documents (Specific) Papers, Pleadings, and Tangible Property of Defendant

03/04/2014 Reply to Opposition
Filed by: Defendant O'Keefe, Brian Kerry
Pro Se "Reply" to State's Opposition to Defendant's Pro Se Motion to Modify and/or Correct Illegal Sentence

03/04/2014 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

03/10/2014 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion for Judicial Notice - the State's Failure to File and Serve Response in Opposition

03/11/2014 Order Denying
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Ex-Parte Motion for Reimbursement of Incidental Costs Declaring Defendant Indigent and Granting Forma Pauperis

03/13/2014 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Notice of Appeal

03/14/2014 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

03/25/2014 Order Denying
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Pro Per Motion to Modify and/or Correct Illegal Sentence

04/01/2014 Order Denying
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Pro Per Motion for Judifical Notice-the State's Failure to File and Serve Response in Opposition

04/11/2014 Notice of Appeal (criminal)

Notice of Appeal

04/11/2014 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

06/06/2014 Notice of Change of Address
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Change of Address for all (3) Cases

06/18/2014 NV Supreme Court Clerks Certificate/Judgment - Dismissed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed

07/23/2014 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion

07/23/2014 Motion for Relief
Filed By: Defendant O'Keefe, Brian Kerry
Motion for Relief from Judgment Based on Lack of Jurisdiction for U.S. Court of Appeals had not Issued any Remand, Mandate, or Remittitur

08/07/2014 Response
Filed by: Plaintiff State of Nevada
State's Response and Motion to Dismiss Defendant's Motion for Relief from Judgment Based on Lack of Jurisdiction for U.S. Court of Appeals had not Issues any Remand, Mandare or Remittatture

08/28/2014 Ex Parte
Filed By: Defendant O'Keefe, Brian Kerry
Ex Parte and/or Notice of Motion and Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit 3:14- CV-00385-RCJ-WGC Against Judge Michael Villani for Proceeding in Clear " Want of Jurisdiction" Thereby Losing Immunity, Absolutely!

08/28/2014 Ex Parte
Filed By: Defendant O'Keefe, Brian Kerry
Exparte and/or Notice of Motion

08/29/2014 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion for Leave of Court to File - Motion for Rehearing - Pursuant to EDCR, Rule 2.24

08/29/2014 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

08/29/2014 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Notice of Appeal

09/02/2014 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

09/04/2014 Order Denying Motion
Filed By: Plaintiff State of Nevada

Order Denying Defendant's Motion for Relief from Judgment Based on Lack of Jurisdiction for U.S. Court of Appeals had not Issues any Remand, Mandare or Remittatture

09/12/2014 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Pro Per Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit Against Judge Michael Villani for Proceeding in Clear "Want of Jurisdiction" Thereby Losing Immunity, Absolutely!

09/12/2014 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Pro Per Motion for Leave of Court to File Motion. . . Rule 2.4

09/15/2014 Petition for Writ of Habeas Corpus
Filed by: Defendant O'Keefe, Brian Kerry
Petition for Writ of Habeas Corpus Pursuant to NRS 34.360 Exclusive Based on Subject-Matter of Amended Information Vested in Ninth Circuit by Notice of Appeal then "COA" Granted on a Double-Jeopardy Violation with no Remand Issued Since.

09/15/2014 Motion for Appointment of Attorney
Filed By: Defendant O'Keefe, Brian Kerry
Motion for Appointment of Counsel Pursuant to NRS 34.750

09/15/2014 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

09/15/2014 Exhibits
Filed By: Defendant O'Keefe, Brian Kerry
Exhibits to Petition for Writ of Habeas Corpus by a True Pretrial Detainee

09/24/2014 Affidavit
Affidavit of the Honorable Michael P. Villani

10/01/2014 Supplement
Filed by: Defendant O'Keefe, Brian Kerry
Petitioner's Supplement with Exhibit of Oral Argument Scheduled by the Ninth Circuit Court of Appeals for November 17, 2014, Courtroom #1 at 9:00 A.M. in San Francisco California.

10/01/2014 Reply to Opposition
Filed by: Defendant O'Keefe, Brian Kerry
"True Pretrial Detainee's" Reply to State's Opposition(s) Admitting the State has a Jurisdictional Defect by the Filing of a Notice of Appeal which Divests Jurisdiction of the Matter Appealed, i.e., O'Keefe's Pretrial Habeas Matter Appealed to the 9th Circuit on the Subject Matter of the Amended Information Already Named a Double Jeopardy Violation (1)

10/03/2014 Amended Petition
Filed By: Defendant O'Keefe, Brian Kerry
"Evidentiary Hearing Request" (Amended Petition for Writ of Habeas Corpus Pursuant to NRS 34.360 Exclusive Based on Subject-Matter of Amended Information Vested in Ninth Circuit by Notice of Appeal then "COA" Granted on a Double Jeopardy Violation with No Remand Issued Since)

10/03/2014 Exhibits
Filed By: Defendant O'Keefe, Brian Kerry
Exhibits to "Amended" Petition for Writ of Habeas Corpus by a True Pretrial Detainee

10/06/2014 Order Denying Motion
Filed By: Plaintiff State of Nevada
Order Denying Motion to Disqualify

10/10/2014 Response
Filed by: Plaintiff State of Nevada
State's Response and Motion to Dismiss to Defendant's Pro Per Petition for Writ of Habeas Corpus Pursuant to NRS 34.360 Exclusive Based on Subject-Matter of Amended Information Vested In Ninth Circuit by Notice of Appeal then "COA" Granted on a Double Jeopardy Violation with no Remand Issued Since (Post Conviction), Amended Petition and Accompanying Exhibits, Opposition to Request For Evidentiary Hearing, and Opposition to Pro Per Motion to Appoint Counsel

10/15/2014 Order for Petition for Writ of Habeas Corpus

10/27/2014 Reply
Filed by: Defendant O'Keefe, Brian Kerry
"Reply" to State's Response and Motion to Dismiss to Defendant's Pro Per Petition for Writ of Habeas Corpus Pursuant to NRS 34.360...Since

10/29/2014 NV Supreme Court Clerks Certificate/Judgment - Dismissed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed

11/21/2014 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Notice of Appeal

11/24/2014 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

02/06/2015 NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed; Rehearing Denied

02/25/2015 Notice
Filed By: Defendant O'Keefe, Brian Kerry
Judicial Notice Pursuant NRS 47.140(1)-NRS 47.150(2) Supporting Pro-Se Petition Pursuant NRS 34.360 See NRS 47.140(1) Federal Statutes 1291.2253 See NRS 47.150(2) Ninth Circuit Memorandum Filed Feb 02 2015

03/12/2015 NV Supreme Court Clerks Certificate/Judgment - Dismissed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed

04/08/2015 Supplemental
Filed by: Defendant O'Keefe, Brian Kerry
Supplemental Petition for Writ of Habeas Corpus (Post Conviction)

06/02/2015 Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Pro Per Post-Conviction Petition for Writ of Habeas Corpus

06/08/2015 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

06/08/2015 Motion to Withdraw As Counsel
Motion to Withdraw Counsel for Conflict and Failure to Present Claims when I.A.C. Claims must be Raised per Statute in the First Petition Pursuant Chapter 34

06/12/2015 Supplemental
Filed by: Defendant O'Keefe, Brian Kerry
Supplemental Appendix of Exhibits to Petition for a Writ of Habeas Corpus Exhibits One (1) Through Twenty-Five (25)

06/15/2015 Supplemental
Filed by: Defendant O'Keefe, Brian Kerry
Supplemental Petition for Writ of Habeas Corpus (Post-Conviction Relief - NRS 34.735 Petition: Form)

06/15/2015 Motion
Filed By: Defendant O'Keefe, Brian Kerry
Motion for Leave to File Supplemental Petition Addressing All Claims in the First Instance Required by Statute for Judicial Economy with Affidavit.

06/16/2015 Reply
Filed by: Defendant O'Keefe, Brian Kerry
Reply to State's Response to Defendant's Pro Per Post Conviction Petition for Habeas Corpus

06/17/2015 Supplement
Filed by: Defendant O'Keefe, Brian Kerry
Supplement with Notice Pursuant NRS 47.150 (2); NRS 47.140 (1), That the United States Supreme Court has Docketed (#14 -10093) the Pretrial Habeas Corpus Matter Pursuant 28 U.S.C. 2241 (c) (3) from the Mooting of Petitioner's Section 2241 Based on a Subsequent Judgment Obtained in want of Jurisdiction while Appeal Pending.

06/24/2015 Ex Parte Motion
Filed By: Defendant O'Keefe, Brian Kerry
Ex Parte Motion to Extend Prison Copywork Limit

06/25/2015 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion to Withdraw Counsel for Conflict and Failure to Present Claims when I.A.C. Claims must be Raised per Statute in the First Petition Pursuant to Chapter 34

06/29/2015 Affidavit
Filed By: Defendant O'Keefe, Brian Kerry
Affidavit of Matthew D. Carling, Esq.

06/29/2015 Certificate of Service
Filed by: Defendant O'Keefe, Brian Kerry

07/09/2015 Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Pro Per Supplemental Petition for Writ of Habeas Corpus and Evidentiary Hearing Request, "Motion for Leave to File Supplemental Petition Addressing all Claims in the First Instance Required by Statute for Judicial Economy with Affidavit," "Reply to State's Response to Defendant's Pro Per Post Conviction Petition for Habeas Corpus," and "Supplement with Notice Pursuant NRS 47.150(2); NRS 47.140(1), that the United States Supreme Court has Docketed (#14 - 10093) the Pretrial Habeas Corpus Matter Pursuant 28 USC 2241(C)(3) from the Mooting of Petitioner's Section 2241 Based on a Subsequent Judgment Obtained in want of Jurisdiction While Appeal Pending"

07/13/2015 Supplement
Filed by: Defendant O'Keefe, Brian Kerry
Supplement to Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)

07/15/2015 Order Denying Motion
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Pro Per Motion to Withdraw Counsel for Conflict and Failure to Present Claims when I.A.C. Claims must be Raised per Statute in the First Petition Pursuant to Chapter 34

07/15/2015 Order Denying Motion
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Pro Per Motion for Leave to File Supplemental Petition Addressing all Claims in the First Instance Required by Statute for Judicial Economy with Affidavit

07/31/2015 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Notice of Appeal

07/31/2015 Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Supplement to Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)

08/04/2015 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

08/11/2015 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Notice of Appeal

08/12/2015 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

08/13/2015 Order Denying Motion
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Ex Parte Motion to Extend Prison Copywork Limit

08/24/2015 Reply
Filed by: Defendant O'Keefe, Brian Kerry
Reply to State's Response to Defendant's Supplemental Petition for Writ of Habeas Corpus

08/25/2015 Reply
Filed by: Defendant O'Keefe, Brian Kerry
Reply in Support of Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)

09/03/2015 Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Reply in Support of Supplemental Post-Conviction Petition for Writ of Habeas Corpus

09/23/2015 Notice of Motion

Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion to Withdraw as Attorney of Record

09/28/2015 NV Supreme Court Clerks Certificate/Judgment - Dismissed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed

09/29/2015 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion to Withdraw as Attorney of Record

10/02/2015 Findings of Fact, Conclusions of Law and Order
Filed By: Plaintiff State of Nevada

10/06/2015 Notice of Entry
Filed By: Plaintiff State of Nevada
Notice of Entry of Findings of Fact, Conclusions of Law and Order

10/07/2015 Notice of Appeal (criminal)
(Notice of Appeal Pursuant NRAP 4(c))

10/20/2015 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

10/21/2015 Request
Filed by: Defendant O'Keefe, Brian Kerry
Request for Rough Draft Transcripts

10/21/2015 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Notice of Appeal

10/21/2015 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry
Case Appeal Statement (NRAP 3(d)(4))

10/29/2015 Recorders Transcript of Hearing
Transcript of Hearing Held on October 20, 2015

10/29/2015 Recorders Transcript of Hearing
Transcript of Hearing Held on September 4, 2015

10/29/2015 Amended Notice of Appeal (Criminal)
*Amended Notice of Appeal to Comply with NRAP Rule 4(a)(7) to Amend Appeal to be Characterized as Appeal Pursuant N.R.A.P. 4(b) (*See Rule 4(e))(If Applicable)*

11/03/2015 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Notice of Appeal Pursuant N.R.A.P 4(b) of Judge Bixler's Denial of Counsel's Motion to Withdraw Held October 20, 2015

11/04/2015 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

11/19/2015 Order Denying Motion
Filed By: Plaintiff State of Nevada
Order Denying Matthew D. Carling's Motion to Withdraw as Attorney of Record for Defendant

01/07/2016 NV Supreme Court Clerks Certificate/Judgment - Dismissed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed

12/21/2016 NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed; Rehearing Denied

04/28/2017 Application to Proceed in Forma Pauperis
Filed By: Defendant O'Keefe, Brian Kerry
Application to Proceed in Forma Pauperis (from 11th Judicial Court Pershing County) (Confidential)

04/28/2017 Order to Proceed In Forma Pauperis
Granted for: Defendant O'Keefe, Brian Kerry
Order to Proceed in Forma Pauperis (from 11th Judicial District Court Pershing County) (Confidential)

05/02/2017 Petition for Writ of Habeas Corpus
Order Transferring Case from 11th Judicial District Court Pershing County

05/15/2017 Order for Petition for Writ of Habeas Corpus

05/17/2017 Notice
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Supplemental Authority by the Court of Appeals of Nevada Now Relevant; Ramirez vs. Nevada 2016 Nev. App. Unpub. Lexis 553, Alleging Due Process Rights Involving Loss of Liberty Challenged Under NRS 34.360 by NRS 34.500 Filed Two Weeks Subsequent O'Keefe's PI16-7070 (Exhibit "A" Attached Incorporated by Reference) Judicial (NRS 47.140, 47.150)

05/31/2017 Motion
Motion to Transfer to Chief Judge Based on Trial Court Served as Defendant

06/09/2017 Motion for Clarification
Plaintiff's Motion of Clarification that Complaint PI 16-1070 was Filed on 12/14/16 Under Protected Liberty Interest State Created by Statute - NRS 34.360 - Thereby Protected by Procedural Due Process Under the U.S. 14th Constitutional Amendment and Nevada Constitution. Article 1 & 8 Inwhich Plaintiff, as Master of His Suit, Prosecuted Writ to Only be Reviewed Under by Law [See Exhibits A & B Attached]

06/20/2017 Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Petition for Writ of Habeas Corpus and Motion to Transfer to Chief Judge

07/03/2017 Order Denying Motion
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Pro Per Motion to Transfer to Chief Judge Based on Trial Court Served as Defendant

07/11/2017 Objection
Filed By: Defendant O'Keefe, Brian Kerry

Objection to the State Judiciarys Unlawful Conversion of Petitioner's NRS 34.360 Habeas Corpus, Also the Petitioner Reply and Objection to the State's Response to Defendants Petition for Writ of Habeas Corpus and Motion to Transfer to Chief Judge. Also Objection to the States' False Return of the Writ Serving to Overthrow the Function of NRS 34.360 Without Legislative Approval

07/13/2017 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Plaintiff's Notice of Appeal Pursuant - NRS 34.575 - of Conversion of State Constitutional Writ Under NRS 34.360 to a Post Writ, NRS 34.724, Wrongfully Applying Limitations

07/17/2017 Case Appeal Statement

07/20/2017 Notice of Appeal (criminal)
Notice of Appeal - Suspension of the State Constitutional Writ, No. PI 16-1070, Pursuant NRS 34.360 and Unlawful Conversion to a State Post Writ Pursuant to NRS 34.724 to Apply Time Bar

07/26/2017 Order Denying Motion
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Pro Per Motion of Clarification that Complaint PI 16-1070 was Filed on 12/14/16 Under Protected Liberty Interest State Created by Statute - NRS 34.360 - Thereby Protected by Procedural Due Process Under the U.S. 14th Constitutional Amendment and Nevada Constitution, Article I 8 in Which Plaintiff, as Master of His Suit, Prosecuted Writ to Only be Reviewed Under By Law [sic]

07/26/2017 Findings of Fact, Conclusions of Law and Order
Filed By: Plaintiff State of Nevada

08/02/2017 Notice of Entry
Notice of Entry of Findings of Fact, Conclusions of Law and Order

08/08/2017 Case Appeal Statement

08/15/2017 Petition for Writ of Habeas Corpus
Filed by: Defendant O'Keefe, Brian Kerry
Petition for Writ of Habeas Corpus Under NRS 34.360 - See NRS 34.500 - Based on Violations of Federal and State Due Process (Procedural) by Depriving Protected Liberty Interest of O'Keefe's Briefing Schedule Set by Order to Hold Pretrial Hearing of O'Keefe's "Abney" Appeal When the State, Despite Being Noticed of Writ Order (2252), Disavowed Sub - Silentio the Declaratory Judgment Issued (2253) that Provided a Binding Adjudication Thereby Establishing O'Keefe's Constitutional Rights as an Equitable Remedy Expressing the Circuit Court's Exercise of (2241) Jurisdiction of O'Keefe's (2241) Pretrial Petition Determined by the Merits (COA) Panel to Manifest a Colorable Double Jeopardy Clause Affirmative Constitutional Pretrial Defense Before the Third Trial and Wrongful Conviction Which Under the Law Said Order (2253) Acted as a Direct Injunction and Can Never be Waved or Forfeited and Attached as Exhibit "A" Incorporated Here by Reference to Include all Scotus Authorities, Federal Statues and Federal Law

08/16/2017 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

08/16/2017 Motion to Correct Sentence
Filed by: Defendant O'Keefe, Brian Kerry
Motion to Correct Illegal Sentence

08/22/2017 Notice of Motion

Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion to Set Hearing of Plaintiff's Motion to Correct Illegal Sentence as to Afford Proper Procedural Due Process with Time for Plaintiff's Reply to State's Response

08/22/2017 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

08/24/2017 Order for Petition for Writ of Habeas Corpus

08/29/2017 Application to Proceed in Forma Pauperis
Filed By: Defendant O'Keefe, Brian Kerry
Application to Proceed in Forma Pauperis for NRS 34.360 Petition. (Confidential)

08/30/2017 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion to Correct Illegal Sentence

08/31/2017 Order to Proceed In Forma Pauperis
Order to Proceed In Forma Pauperis (Confidential)

09/06/2017 Notice of Motion
Notice of Motion and Motion to Strike and Object to Direct Case Number Assigned and Request Independent Habeas Corpus No. Under NRS 34.360 Pursuant Liberty Interest and Due Process of Law Under XIV Amendment

09/06/2017 Notice of Motion
Notice of Motion and Motion to Waive Any Ostensible Oral Argument, By Personal Appearance, Thereby Requesting any Pro Se Appearance to be Conducted Via Telephonically

09/06/2017 Notice of Motion
Notice of Motion and Motion to Object...NRS 34.360

09/07/2017 Notice of Motion
Notice of Motion and Motion to Object to Court Clerk Filing Petition for Habeas Corpus Under NRS 34.360 as a Direct Action Thereby Unlawfully Recharacterizing New Independent Civil Suit as a Proceeding in The Original Action Denying The "Liberty Clause"

09/07/2017 Notice of Motion

09/07/2017 Supplemental
Supplemental Sentencing Exhibit as "C" Incorporated Herein By Reference to Defendant's Motion to Correct Illegal Sentence Tentatively Scheduled 9/07/2017 08:30am

09/07/2017 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

09/12/2017 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion and Motion to Strike State's Untimely Opposition to Defendant's Motion to Correct Illegal Sentence

09/12/2017 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

09/14/2017 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

09/14/2017 Notice
Filed By: Defendant O'Keefe, Brian Kerry
Notice and Reply to State's Opposition to Defendant's Motion to Correct Illegal Sentence Untimely Served and Filed Supported by Incoming Legal Mail Log as Exhibit "A"

09/21/2017 Inmate Filed - Petition for Writ of Habeas Corpus
Party: Defendant O'Keefe, Brian Kerry

09/25/2017 Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Petition for Writ of Habeas Corpus

10/03/2017 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

10/03/2017 Notice of Motion
Notice of Motion and Motion to Demand Upon Request by Law to Place Defendant's Motion Under Protected Liberty Interest - NRS 176.555, Back on Calendar Based on Motion Being Incidental and Can be Filed at Anytime in Accordance with O'Keefe's Procedural Due Process Protected by the Due Process Clause of the U.S. Fourteenth Constitutional Amendment

10/11/2017 Order Denying Motion
Order Denying Defendant's All Pending Motions

10/31/2017 Request
Filed by: Defendant O'Keefe, Brian Kerry
Request for Submission of Petition

11/08/2017 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

11/08/2017 Motion for Order
Filed By: Defendant O'Keefe, Brian Kerry
Motion for Order to Have P. and P. File Amended PSI to Reflect Criminal Non-Support of Defendants Correctly as Misdemeanors in PSI Based on Sentence Adjudicated of (9) Months Pursuant (JOC) Entry of Sentence Attached and Incorporated Here As Exhibit 1

11/21/2017 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion to Demand

12/04/2017 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion for Corrected PSI

01/11/2018 Findings of Fact, Conclusions of Law and Order
Filed By: Plaintiff State of Nevada

01/18/2018 Notice of Entry
Notice of Entry of Findings of Fact, Conclusions of Law and Order

02/06/2018 Order Denying Motion
Order Denying Defendant's Motion to Demand Upon Request By Law to Place Defendant's Motion Under Protected Liberty Interest - NRS 176.555 Back on Calendar Based on Motion Being Incidental and Can be Filed at Anytime in Accordance With O'Keefe Procedural Due Process Protected by the Due Process Cause of the US Fourteenth Constitutional Amendment

02/14/2018 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

02/14/2018 Motion to Reconsider
Filed By: Defendant O'Keefe, Brian Kerry
Motion for Reconsideration to Amend the Order Which Denied Defendant's Motion the State Admits Does Not Attack Facial Legality of Sentence, But Rather Clearly Only Argues This Court Lacked Jurisdiction to Sentence Based on "COA" Issued Pursuant Guidelines Set by Congress Delineated by SCOTUS in Barefoot v. Estelle, 463 U.S. 880, AT 892 FN3

02/21/2018 Notice of Intent
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Intent to Sue Within Statutory Timelimit for Failure to Enforce Rights Created by Federal Statutes, i.e. - 28 U.S.C. 2241, 2252, 2253 Despite Actual and Constructive Notice Being Provided

03/02/2018 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion for Reconsideration

03/06/2018 Opposition to Motion
State's Opposition to Defendant's Motion for Reconsideration

03/14/2018 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry
Notice of Motion (By Affidavit)

03/14/2018 Motion
Filed By: Defendant O'Keefe, Brian Kerry
Motion Court to Order Clerk of Court to File Motion Pursuant Rule 59(e) and Send Back Additional Copy That Was Noticed and Provided and Schedule Hearing Providing Minimum Procedural Due Process-Notice and Hearing. [See Affidavit Enclosed]

03/27/2018 Order Denying Motion
Order Denying Defendant's Motion for Reconsideration

05/11/2018 NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed

10/02/2018 Motion to Correct Sentence
Filed by: Defendant O'Keefe, Brian Kerry
Motion to Correct "Facially" Illegal Sentence

10/02/2018 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

10/18/2018 Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion to Correct "Facially" Illegal Sentence

10/29/2018 Motion
Filed By: Defendant O'Keefe, Brian Kerry
Omnibus Motion (One- Notice of Memorandum of Points and Authorities to Support NRS 34.360 Petition Not a Motion as Erratum and Notice of Supplemental Authority to Memorandum as Ex Parte DELA 25 Nev. 346(1900))

10/31/2018 Order Denying Motion
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Motion to Correct "Facially" Illegal Sentence

11/21/2018 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
(Civil)- Notice of Appeal "Res Nova"; Matter of First Impression for a Claim that Works Under NRS 176.555

11/27/2018 Case Appeal Statement
Filed By: Defendant O'Keefe, Brian Kerry

11/29/2018 Order
Filed By: Defendant O'Keefe, Brian Kerry
Order Transferring Petition for Writ of Habeas Corpus and All Subsequent Fillings

12/12/2018 Order for Petition for Writ of Habeas Corpus

12/31/2018 Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Petition for Writ of Habeas Corpus

12/31/2018 Motion for Relief
Filed By: Defendant O'Keefe, Brian Kerry
Motion for Relief from PPOW Filed Dec 12 2018 Pursuant to NevR Civ. P. 60(b)(3)(4)

12/31/2018 Notice of Motion
Filed By: Defendant O'Keefe, Brian Kerry

01/28/2019 Notice of Motion
Filed By: Plaintiff State of Nevada
Notice of Motion and Motion to Declare Vexatious Litigant and to Refer Defendant to Department of Corrections for Forfeiture of Statutory Credits

02/08/2019 Motion
Filed By: Defendant O'Keefe, Brian Kerry
Urgent Motion for Enlargement of Time (NRCP 6) to File Opposition and Continue Hearing Scheduled for 02/12/2019 of State's Motion to Declare Vexatious Litigant ... Credits, Providing Equitable Procedural Due Process ota Pro per Inmate Without Direct Access to Law Library Who Requires Copies and Research for Pro Per Objection

02/12/2019 Demand
Filed By: Defendant O'Keefe, Brian Kerry
Defendant's Demand for Trial by Jury Pursuant to N.R. CIV 38(b) and Nevada Constitution , Article I Section 3 Concerning State's Charge of Violation NRS 209-451(i)(d) with Service Complete by Rule 5 (b) Affidavit of Service

02/12/2019 Notice of Motion

Filed By: Defendant O'Keefe, Brian Kerry

02/19/2019 Opposition
Filed By: Defendant O'Keefe, Brian Kerry
Defendant's Opposition to States Retaliatory Motion to Declare Vexatious Litigant... Where Federal Counsel Appointed by Order of 9th Cir Declared in Full Briefing O'Keefe to be Prolific

02/25/2019 Supplement to Opposition
Filed By: Defendant O'Keefe, Brian Kerry

02/25/2019 Reply
Filed by: Plaintiff State of Nevada
Reply to Defendant's Opposition to the State's Motion to Declare Vexatious Litigant and to Refer Defendant to Department of Corrections for Forfeiture of Statutory Credits

04/04/2019 Findings of Fact, Conclusions of Law and Judgment
Findings of Fact, Conclusions of Law and Order

04/30/2019 Notice of Appeal (criminal)
Party: Defendant O'Keefe, Brian Kerry
Notice of Appeal

05/01/2019 Notice of Entry
Notice of Entry of Findings of Fact, Conclusions of Law and Order

05/01/2019 Case Appeal Statement
Case Appeal Statement

DISPOSITIONS

01/01/1900 **Plea** (Judicial Officer: User, Conversion)
1. MURDER OF THE SECOND DEGREE WITH USE OF A DEADLY WEAPON
Not Guilty
PCN: Sequence:

05/05/2009 **Disposition** (Judicial Officer: User, Conversion)
1. MURDER OF THE SECOND DEGREE WITH USE OF A DEADLY WEAPON
Guilty
PCN: Sequence:

05/05/2009 **Disposition** (Judicial Officer: User, Conversion)

05/05/2009 **Adult Adjudication** (Judicial Officer: User, Conversion)
1. MURDER OF THE SECOND DEGREE WITH USE OF A DEADLY WEAPON
01/01/1900 (F) 200.010 (200.010)
PCN: Sequence:

Converted Disposition:
Sentence# 0001:
Minimum 10 Years to Maximum 25 Years
Placement: NSP
Converted Disposition:

Sentence# 0002:
Minimum 96 Months to Maximum 240 Months
Placement: NSP
Cons/Conc: Consecutive

w/Charge Item: 0001
and Sentence#: 0001
Converted Disposition:
Sentence# 0003: CREDIT FOR TIME SERVED
Minimum 181 Days to Maximum 181 Days

08/28/2012 **Amended Adult Adjudication** (Judicial Officer: User, Conversion) Reason: Amended
1. MURDER OF THE SECOND DEGREE WITH USE OF A DEADLY WEAPON
01/01/1900 (F) 200.010 (200.010)
PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:120 Months, Maximum:300 Months
Consecutive Enhancement: Minimum:8 Years, Maximum:20 Years
Credit for Time Served: 1394 Days
Comments: $25 ADM Fee, Waived if Already Paid, and the $150 DNA Analysis Fee including testing to determine genetic markes, Waived if already paid.

HEARINGS

01/06/2009 **Initial Arraignment** (9:00 AM)
INITIAL ARRAIGNMENT Court Clerk: Nora Pena/np Relief Clerk: Dameda Scott Reporter/Recorder: Kiara Schmidt Heard By: Kevin Williams
Matter Heard; INITIAL ARRAIGNMENT Court Clerk: Nora Pena/np Relief Clerk: Dameda Scott Reporter/Recorder: Kiara Schmidt Heard By: Kevin Williams
Journal Entry Details:
Mr. Schieck asked to let the District Court 17 set the trial date. COURT ORDERED, matter set for entry of plea and trial date. CUSTODY 1/20/09 8:00 AM ENTRY OF PLEA/TRIAL SETTING - DEPT 17 ;

01/20/2009 **Entry of Plea** (8:00 AM)
ENTRY OF PLEA/TRIAL SETTING Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Matter Heard; ENTRY OF PLEA/TRIAL SETTING Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Journal Entry Details:
DEFT. OKEEFE ARRAIGNED, PLED NOT GUILTY and INVOKED THE 60-DAY RULE. Mr. Smith stated the State is going to INVOKE the 60 day rule as well. COURT ORDERED, matter set for trial. CUSTODY 3/10/09 8:00 AM CALENDAR CALL 3/16/09 10:00 AM JURY TRIAL ;

02/10/2009 **Petition for Writ of Habeas Corpus** (8:00 AM)
Events: 01/26/2009 Petition for Writ of Habeas Corpus
PTN FOR WRIT OF HABEAS CORPUS Heard By: Michael Villani

02/10/2009 **Motion to Admit Evidence** (8:00 AM)
STATES MTN: ADMIT EVIDENCE OF OF OTHER CRIMES/06 Heard By: Michael Villani

02/10/2009 **All Pending Motions** (8:00 AM)
ALL PENDING MOTIONS 2-10-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Matter Heard; ALL PENDING MOTIONS 2-10-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Journal Entry Details:
PETITION FOR WRIT OF HABEAS CORPUS...STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS Arguments by counsel. COURT ORDERED, Deft's Petition for Writ of Habeas Corpus DENIED; State's Motion to Admit Evidence of Other Crimes will be set for a Petrocelli Hearing. Amended Information FILED IN OPEN COURT. NDC 2/26/09 10:00 AM EVIDENTIARY HEARING: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS ;

02/26/2009 **Evidentiary Hearing** (10:00 AM)
EVIDENTIARY HRG: STATE'S MTN TO ADMIT EVIDENCE OF OTHER CRIMES WRONGS OR ACTS Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael

Matter Continued; EVIDENTIARY HRG: STATE'S MTN TO ADMIT EVIDENCE OF OTHER CRIMES WRONGS OR ACTS Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael
Journal Entry Details:
COURT ORDERED, matter CONTINUED. NDC ;

03/10/2009 **Calendar Call** (8:00 AM)
CALENDAR CALL

03/10/2009 **Motion** (8:00 AM)
Events: 03/04/2009 Motion
DEFT'S MTN TO REQUIRE COURT TO ADVISE JURORS AS TO MANDATORY SENTENCES /9 Heard By: Michael Villani

03/10/2009 **All Pending Motions** (8:00 AM)
ALL PENDING MOTIONS 3-10-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Matter Heard; ALL PENDING MOTIONS 3-10-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Journal Entry Details:
CALENDAR CALL...DEFT'S MOTION TO REQUIRE COURT TO ADVISE JURORS AS TO MANDATORY SENTENCES Counsel stated they are ready to proceed to trial which will take 3-4 days. Mr. Pike stated that he has 5 witnesses in addition to the State's witnesses and one is out of state; further, has a signed Stipulation and Order Waiving the Penalty Hearing but will withhold filing it until after the jury is seated. Arguments by counsel regarding Deft's Motion. COURT ORDERED, Deft's Motion to Require Court to Advise Juror's as to Mandatory Sentences DENIED; Trial date STANDS. NDC ;

03/16/2009 **Evidentiary Hearing** (9:30 AM)
EVIDENTIARY HRG: STATE'S MTN TO ADMIT EVIDENCE OF OTHER CRIMES WRONGS OR ACTS

03/16/2009 **All Pending Motions** (9:30 AM)
ALL PENDING MOTIONS 3-16-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Matter Heard; ALL PENDING MOTIONS 3-16-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Journal Entry Details:
EVIDENTIARY HEARING: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS...TRIAL BY JURY Arguments by counsel. COURT ORDERED, Motion GRANTED. Jury and 2 alternates selected and sworn. Court Clerk read the Amended Information and stated the deft's plea thereto. Opening statements by counsel. Testimony and exhibits presented (See worksheets). COURT ORDERED, matter CONTINUED. ;

03/16/2009 **Jury Trial** (10:00 AM)
TRIAL BY JURY Heard By: Michael Villani

03/17/2009 **Jury Trial** (9:30 AM)
TRIAL BY JURY Court Clerk: Kristen Brown/A.M. Relief Clerk: Shelly Landwehr/P.M. Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael
Matter Continued; TRIAL BY JURY Court Clerk: Kristen Brown/A.M. Relief Clerk: Shelly Landwehr/P.M. Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael
Journal Entry Details:
OUTSIDE THE PRESENCE OF THE JURY: Court advised counsel Juror #12's apartment flooded and will not be able to return as he has to be present to solve the problem. JURY PRESENT: Testimony and exhibits presented (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm moved for a mistrial and dismissal. Arguments by counsel. COURT ORDERED, Motion DENIED. JURY PRESENT: Testimony and exhibits presented (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm moved for a mistrial and dismissal regarding testimony from Officer Hutchinson. Arguments by counsel. COURT ORDERED, Motion DENIED, Court finds statement was not a Discovery violation, it was memorialized, not undue prejudice. ;

03/18/2009

Jury Trial (9:45 AM)
TRIAL BY JURY Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael
Matter Continued; TRIAL BY JURY Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael
Journal Entry Details:
OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel. Ms. Palm moved for a mistrial and dismissal. Further argument by counsel. COURT ORDERED, Motion DENIED but will allow the defense to call the officer's back and question them about the report. JURY PRESENT: Testimony and exhibits presented (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel regarding the note by witness Hutchison. COURT ORDERED, the report is not coming in at this point. JURY PRESENT: Testimony and exhibits presented (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Court advised counsel that it observed a few of the jurors speaking with one of the witnesses. Jurors 3, 6 & 7 questioned. JURY PRESENT: Testimony and exhibits presented (See worksheets). COURT ORDERED, matter CONTINUED. ;

03/19/2009 **Jury Trial** (9:00 AM)
TRIAL BY JURY Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael
Matter Continued; TRIAL BY JURY Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael
Journal Entry Details:
JURY PRESENT: State rests. Testimony and exhibits presented (See worksheets). COURT ORDERED, matter CONTINUED. OUTSIDE THE PRESENCE OF THE JURY: Court advised the Deft. of his rights not to testify. ;

03/20/2009 **Jury Trial** (9:00 AM)
TRIAL BY JURY Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Matter Heard; TRIAL BY JURY Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Journal Entry Details:
OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel regarding the victims medical records. Court stated its findings and ORDERED, Motion to Allow the Medical Records be Introduced DENIED but will allow testimony that the victim attempted to commit suicide two days prior to the incident. JURY PRESENT: Testimony and exhibits presented (See worksheets). Defense rests. OUTSIDE THE PRESENCE OF THE JURY: Instructions settled on the record. JURY PRESENT: Court instructed the jury. Closing arguments by counsel. At the hour of 4:10 pm, the jury retired to deliberate. At the hour of 7:15 pm, the jury returned with a VERDICT of GUILTY of SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON. Court THANKED and EXCUSED the jury. COURT ORDERED, Deft. REMANDED TO CUSTODY and matter referred to Parole and Probation and set for sentencing. CUSTODY 5/05/09 8:00 AM SENTENCING ;

04/07/2009 **Motion** (8:00 AM)
Events: 03/24/2009 Motion
DEFT'S MTN TO SETTLE RECORD/13 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Matter Heard; DEFT'S MTN TO SETTLE RECORD/13 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Journal Entry Details:
Arguments by counsel. Court stated the record is clear. NDC ;

05/05/2009 **Sentencing** (8:00 AM)
SENTENCING Court Clerk: Kristen Brown Relief Clerk: Dameda Scott/ds Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Granted; SENTENCING Court Clerk: Kristen Brown Relief Clerk: Dameda Scott/ds Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Journal Entry Details:

Argument by State. Statements by Defendant and counsel. Ms. Palm requested corrections to the original Pre-Sentence Investigation Report. COURT ORDERED, Pre-Sentence Investigation Report amended by interlineation and incorporated into the court file copy as follows: Page 1, 20 years; Page 4, Juvenile Offense; Page 7, deleted sentence regarding a

knife; Page 8, Section 9, Paragraph 2. COURT NOTED, those items were not considered by this Court. DEFT. O'KEEFE ADJUDGED GUILTY of COUNT 1 - 2ND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F). COURT ORDERED, in addition to the $25.00 Administrative Assessment fee, and a $150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED ON COUNT 1 - 2ND DEGREE MURDER (F) to a MINIMUM of TEN (10) YEARS and a MAXIMUM of TWENTY-FIVE (25) YEARS in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE MINIMUM OF NINETY-SIX (96) MONTHS and a MAXIMUM of TWO-HUNDRED FORTY (240) MONTHS in the Nevada Department of Corrections (NDC) for the USE OF A DEADLY WEAPON, to run CONSECUTIVE TO COUNT 1, with 181 DAYS credit for time served. BOND, if any, EXONERATED. NDC ;

04/29/2010 **Status Check** (8:15 AM)
STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL Court Clerk: Carol Donahoo Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael
Matter Continued; STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL Court Clerk: Carol Donahoo Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael
Journal Entry Details:
Deft. O'Keefe incarcerated in the Nevada Department of Corrections (NDC) and not present. Mr. Schieck advised the Remittitur has not been issued by the Supreme Court yet; further, Randall Pike, SPD, will be handling this matter and he is still recovering from surgery. Mr. Schieck requested the matter be CONTINUED. COURT SO ORDERED. NDC ;

05/20/2010 **Status Check** (8:15 AM)
STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL Court Clerk: Carol Donahoo Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Matter Heard; STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL Court Clerk: Carol Donahoo Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Journal Entry Details:
Deft. O'Keefe incarcerated in the Nevada Department of Corrections (NDC) and not present. Court Services advised Deft. was not transported; Ms. Jackson advised Deft. should really be present. Therefore, COURT ORDERED, matter CONTINUED. NDC CONTINUED TO: 06/10/10 8:15 AM ;

06/10/2010 **Status Check** (8:15 AM)
STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL Heard By: Michael Villani

06/10/2010 **Motion** (8:15 AM)
Events: 05/24/2010 Motion
MOTION FOR JUDICIAL RULING Heard By: Michael Villani

06/10/2010 **All Pending Motions** (8:15 AM)
ALL PENDING MOTIONS (6/10/10) Relief Clerk: Susan Jovanovich /sj Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Matter Heard; ALL PENDING MOTIONS (6/10/10) Relief Clerk: Susan Jovanovich /sj Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani
Journal Entry Details:
STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL...MOTION FOR JUDICIAL RULING Michael Hyte, Deputy Special Public Defender (Bar # 10088), also present. Ms. Lavell advised she was just assigned onto the case this morning. Colloquy regarding additional subpoenas to be served for additional medical records, and HIPPA protection guidelines. Arguments by Mr. Pike. Matter submitted by State. COURT ORDERED, Motion GRANTED. Court advised counsel to have redactions of sensitive information done on medical records. Ms. Lavell requested an in-camera view be done on these records upon being received by counsel. Colloquy regarding resetting trial date. Statements by Deft. MATTER TRAILED for Court to review current trial schedule. RECALLED. Mr. Pike advised this matter is overflow eligible, and requested additional time to prepare pre-trial briefs. COURT SO ORDERED. FURTHER, trial date SET. At request of counsel, COURT ORDERED, Deft. REMANDED into CUSTODY on this matter. CUSTODY 8-17-10 8:15 AM CALENDAR CALL 8-23-10 10:00 AM TRIAL BY JURY ;

08/03/2010 *CANCELED* **Motion** (8:15 AM)
Vacated

08/12/2010 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
08/12/2010, 08/17/2010, 08/19/2010-08/20/2010
Events: 08/02/2010 Notice of Motion
Motion By Defendant O'Keefe To Suppress His Statements To Police Or Alternatively To Preclude The State From Introducing Portions Of His Interrogation
Matter Continued; Motion By Defendant O'Keefe To Suppress His Statements To Police Or Alternatively To Preclude The State From Introducing Portions Of His Interrogation
Matter Continued;
Matter Heard; Motion By Defendant O'Keefe To Suppress His Statements To Police Or Alternatively To Preclude The State From Introducing Portions Of His Interrogation
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Colloquy regarding the statement made by Deft. to Officer Ballejos. Deft. was in custody but had not been given the Miranda warning. COURT FINDS, that due to the nature of the statements and what the Police Officer knew at the time, the statements do not fall within the public safety exception. Therefore, COURT ORDERED, the statement is excluded. Ms. Palm is requesting that Deft.'s statement made during the recorded interrogation by homicide detectives be stricken in its entirety. COURT FINDS, that even though Deft. was intoxicated, under the totality of the circumstances, his statement was freely and voluntarily given. Court and counsel proceed and discuss the particular portions of Deft.'s statement, which must be suppressed. The ruling as to each specific statement is as stated on the record in open court. Ms. Palm advised there are a few other issues that need to be resolved. With regard to Detective Wildemann, Mr. Lalli advised the State is withdrawing the Notice of Expert; however, he will still be testifying. The Detective will say that in homicides he has investigated, it is not uncommon for the stabber to cut himself; colloquy. Court will allow the testimony but the Detective cannot say "and that is what happened here." With regard to any reference to the prior trial, counsel have stipulated to using the words, "prior testimony" or "prior proceedings." Court noted Jury Trial will begin Monday, August 23, 2010, at 10:00 a.m. ;
Matter Continued; Motion By Defendant O'Keefe To Suppress His Statements To Police Or Alternatively To Preclude The State From Introducing Portions Of His Interrogation
Matter Continued;
Matter Heard; Motion By Defendant O'Keefe To Suppress His Statements To Police Or Alternatively To Preclude The State From Introducing Portions Of His Interrogation
Matter Continued; Motion By Defendant O'Keefe To Suppress His Statements To Police Or Alternatively To Preclude The State From Introducing Portions Of His Interrogation
Matter Continued;
Matter Heard; Motion By Defendant O'Keefe To Suppress His Statements To Police Or Alternatively To Preclude The State From Introducing Portions Of His Interrogation

08/12/2010 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
08/12/2010, 08/17/2010
Events: 08/02/2010 Notice of Motion
Notice Of Motion And Motion By Defendant O'Keefe To Admit Evidence Showing LVMPD Homicide Detectives Have Preserved Blood/Breath Alcohol Evidence in Another Recent Case
Matter Continued; Notice Of Motion And Motion By Defendant O'Keefe To Admit Evidence Showing LVMPD Homicide Detectives Have Preserved Blood/Breath Alcohol Evidence in Another Recent Case

08/12/2010 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 08/02/2010 Notice of Motion
Notice Of Motion And Motion By Defendant O'Keefe For Discovery
Granted in Part; Notice Of Motion And Motion By Defendant O'Keefe For Discovery

08/12/2010 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 08/02/2010 Notice of Motion
Notice Of Motion And Motion By Defendant O'Keefe For Evidentiary Hearing On Whether The State And CCDC Have Complied With Their Obligations With Respect To The Recording Of A Jail Visit Between O'Keefe And State Witness Cheryl Morris
Withdrawn; Notice Of Motion And Motion By Defendant O'Keefe For Evidentiary Hearing On Whether The State And CCDC Have Complied With Their Obligations With Respect To The Recording Of A Jail Visit Between O'Keefe And State Witness Cheryl Morris

08/12/2010 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Matter Heard;
Journal Entry Details:
NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE TO SUPPRESS HIS STATEMENTS TO POLICE OR, ALTERNATIVELY, TO PRECLUDE THE STATE FROM INTRODUCING PORTIONS OF HIS INTERROGATION . . . NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE TO ADMIT EVIDENCE SHOWING LVMPD HOMICIDE DETECTIVES HAVE PRESERVED BLOOD/BREATH ALCOHOL EVIDENCE IN ANOTHER RECENT CASE Christopher Lalli, Asst DA, present on behalf of the State and Patricia Palm. Esq., present on behalf of Deft. O'Keefe, who is also present. At counsels request, COURT ORDERED, the two (2) above-named Motions shall be CONTINUED to August 19, 2010. NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE FOR DISCOVERY: Arguments by counsel. COURT ORDERED, Motion GRANTED IN PART; the last known addresses of any lay witnesses and any information that would help identify any Felony convictions for those witnesses shall be provided. NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE FOR EVIDENTIARY HEARING ON WHETHER THE STATE AND CCDC HAVE COMPLIED WITH THEIR OBLIGATIONS WITH RESPECT TO THE RECORDING OF A JAIL VISIT BETWEEN O KEEFE AND STATE WITNESS CHERYL MORRIS: Ms. Palm advised this matter is resolved and, therefore, stated she would WITHDRAW said Motion. COURT ORDERED, Motion WITHDRAWN. Colloquy regarding the trial. Counsel expect the trial will take five (5) days. Ms. Palm to prepare the Order approved as to form and content by Mr. Lalli. ;

08/12/2010 *CANCELED* **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Vacated

08/17/2010 **Calendar Call** (8:15 AM) (Judicial Officer: Villani, Michael)

08/17/2010 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
08/17/2010, 08/19/2010
Motion By Defendant O'Keefe To Preclude The State From Introduction At Trial Other Act Or Character Evidence And Other Evidence Which Is Unfairly Prejudicial Or Would Violate His Constitutional Rights
Motion By Defendant O'Keefe To Preclude The State From Introduction At Trial Other Act Or Character Evidence And Other Evidence Which Is Unfairly Prejudicial Or Would Violate His Constitutional Rights
Granted in Part;

08/17/2010 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
08/17/2010, 08/19/2010
Motion By Defendant O'Keefe To Admit Evidence Pertaining To The Alleged Victim's Mental Health Condition And History, Including Prior Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation And Erratic Behavior
Motion By Defendant O'Keefe To Admit Evidence Pertaining To The Alleged Victim's Mental Health Condition And History, Including Prior Suicide Attempts, Anger Outbursts, Anger Management Therapy, Self-Mutilation And Erratic Behavior
Matter Heard;

08/17/2010 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Continued;
Journal Entry Details:
MOTION BY DEFENDANT O'KEEFE TO ADMIT EVIDENCE PERTAINING TO THE ALLEGED VICTIM'S MENTAL HEALTH CONDITION AND HISTORY, INCLUDING PRIOR SUICIDE ATTEMPTS, ANGER OUTBURSTS, ANGER MANAGEMENT THERAPY, SELF-MUTILIZATION AND ERRATIC BEHAVIOR...MOTION BY DEFENDANT O'KEEFE TO PRECLUDE THE STATE FROM INTORDUCTION AT TRIAL OTHER ACT OR CHARACTER EVIDENCE AND OTHER EVIDENCE WHICH IS UNFAIRLY PREJUDICIAL OR WOULD VIOLATE HIS CONSTITUTIONAL RIGHTS...MOTION BY DEFENDANT O'KEEFE TO SUPPRESS HIS STATEMENTS TO POLICE OR ALTERNATIVELY TO PRECLUDE THE STATE FROM INTRODUCING PORTIONS OF HIS INTERROGATION...MOTION BY DEFENDANT OKEEFE TO ADMIT EVIDENCE SHOWING LVMPD HOMICIDE DETECTIVES HAVE PRESERVED BLOOD/BREATH ALCOHOL EVIDENCE IN ANOTHER RECENT CASE As to the first three (3) motions on the calendar, Court advised that it did not receive courtesy copies and, therefore, is not ready to

make a ruling and, ORDERED, matter CONTINUED to Thursday. Court directed counsel to provide coutesy copies of all their pleadings to Court because although they have been filed, they have not been imaged and, therefore, are not accessible to the Court. As to Defendant's motion to admit evidence showing LVMPD homicide detectives have preseerved blood/breath alcohol evidence in another recent case, following arguments by counsel, COURT ORDERED, motion DENIED, noting its' original ruling stands. Mr. Lalli advised;

08/17/2010 *CANCELED* **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Vacated
duplicate entry

08/19/2010 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 08/16/2010 Order Shortening Time
Order Shortening Time To Preclude Expert Testimony
Matter Heard;

08/19/2010 **Status Check** (8:15 AM) (Judicial Officer: Villani, Michael)
Status Check: Availability Of Dr. Benjamin For Trial
Matter Heard;

08/19/2010 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Matter Heard;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Conference at the Bench. MOTION BY DEFT. O'KEEFE TO PRECLUDE THE STATE FROM INTRODUCTION AT TRIAL OTHER ACT OR CHARACTER EVIDENCE AND OTHER EVIDENCE WHICH IS UNFAIRLY PREJUDICIAL OR WOULD VIOLATE HIS CONSTITUTIONAL RIGHTS: This Motion has nine parts and is GRANTED in part and DENIED in part as follows: a. The State should be precluded from introducing evidence showing that O'Keefe had claimed to Cheryl Morris that he could kill anyone with a knife and had demonstrated how he would kill with knives - Arguments by counsel. Court noted that it previously ruled that the statement is admissible and it is relevant. Therefore, COURT ORDERED, Motion DENIED. b. The State should be limited to presenting the Judgment of Conviction for Felony Domestic Violence with the redaction to omit the reference to a concurrent sentence - Arguments by counsel. COURT ORDERED, Motion GRANTED. c. The State should be precluded from introducing any evidence of a sexual assault allegation related to O'Keefe's prior burglary conviction - Arguments by counsel. Mr. Lalli advised the State does not intend to admit this evidence unless the door is opened. COURT ORDERED, Motion GRANTED. d. The State should be precluded from introducing the term "Sexual Assault Kit" with reference to the DNA collection here or referring to any sexual assault - Arguments by counsel. Mr. Palm advised the parties have agreed to call the Sexual Assault Kit a DNA Collection Kit. COURT ORDERED, Motion GRANTED. e. The State should be precluded from introducing photographs of Whitmarsh's bruises, which cannot be linked to the time of the incident here - Arguments by counsel. COURT ORDERED, Motion DENIED. f. The State should be precluded from introducing any reference to racial slurs allegedly made by O'Keefe - Arguments by counsel. COURT ORDERED, Motion GRANTED. g. The State should be precluded from introducing the hearsay statement of Charles Tolliver that O'Keefe killed Whitmarsh - Arguments by counsel. COURT ORDERED, Motion GRANTED; the statement "Baby, he done killed that Girl" shall be excluded. MOTION BY DEFT. O'KEEFE TO PRECLUDE EXPERT TESTIMONY: Ms. Palm advised this is related to letter "H" of the above-referenced Motion. COURT ORDERED, this issue will be CONTINUED as the Court would like to review the Case Law. FURTHER, letter "I" of the above-referenced Motion will also be CONTINUED. MOTION BY DEFT. O'KEEFE TO SUPPRESS HIS STATEMENTS TO POLICE OR, ALTERNATIVELY, TO PRECLUDE THE STATE FROM INTRODUCING PORTIONS OF HIS INTERROGATION: COURT ORDERED, Motion CONTINUED. Mr. Lalli requested leave of Court to file a Second Amended Information. There being no objection by Ms. Palm, COURT ORDERED, request GRANTED; Second Amended Information FILED IN OPEN COURT. STATUS CHECK: AVAILABILITY OF DR. BENJAMIN FOR TRIAL: Ms. Palm presented a Motion by Deft. O'Keefe to Preclude Late Noticed Expert Testimony from Dr. Dutra, which was FILED IN OPEN COURT. Mr. Lalli advised that if they cannot get Dr. Benjamin here to testify, the State would like to call Dr. Dutra. Arguments by counsel. COURT FINDS, the State has exercised due diligence in trying to locate Dr. Benjamin in order to obtain her testimony at trial. Of paramount importance in this case is the analysis of the injuries, how they were sustained, and whether they were self-inflicted. Mr. Lalli advised he would continue to try and contact Dr. Benjamin but if the State cannot locate her, the State

would like to call Dr. Dutra. MOTION BY DEFT. O'KEEFE TO ADMIT EVIDENCE PERTAINING TO THE ALLEGED VICTIM'S MENTAL HEALTH CONDITION AND HISTORY, INCLUDING PRIOR SUICIDE ATTEMPTS, ANGER OUTBURSTS, ANGER MANAGEMENT THERAPY, SELF-MUTILATION, AND ERRATIC BEHAVIOR: Arguments by counsel. Court directed counsel to go through the records to see if there are any agreements. Counsel to provide the Court with the records they agree upon as well as the records they disagree on. The Court will then rule on said records during the trial. CUSTODY CONTINUED TO: 08/20/10 8:15 AM ;

08/23/2010 **Jury Trial** (10:00 AM) (Judicial Officer: Villani, Michael)
08/23/2010-08/27/2010, 08/30/2010-09/02/2010

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;
Journal Entry Details:
9:30 a.m Jurors returned to continue deliberations. At the hour of 10:15 p.m. the Jury presented a note to the Court indicating that they were still deadlocked. The Note was marked for identification as Court's Exhibit 18 and ADMITTED. 10:43 a.m. OUTSIDE THE PRESENCE OF THE JURY: Robert Daskas, Chf Dep DA, present on behalf of Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Court advised counsel of the notes it had received from the Jury. JURY PRESENT: Court gave an Allen Charge to the Jury. At the hour of 10:55 a.m. the Jury returned to the Jury room to continue their deliberations. At the hour of 11:38 a.m. the Jury indicated that they were still deadlocked. The Note was marked for identification as Court's Exhibit 20 and ADMITTED. JURY PRESENT: Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Court noted the Jury is deadlocked at 10 to 2. It is fruitless to continue deliberations at this time. Therefore, COURT FINDS, that due to the hopeless deadlock of the Jury, it is a manifest necessity to declare a MISTRIAL. Court thanked and excused the Jury and ORDERED, matter set for status check; Deft. REMANDED to custody. CUSTODY 09/14/10 8:15 AM STATUS CHECK: NEW TRIAL DATE ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;
Journal Entry Details:
9:00 a.m. Jury returned to deliberate. At the hour of 3:45 p.m. the Jury presented a note with a question to the Court. Court held a telephonic conference with Christopher Lalli, Chf Dep DA, and Patricia Palm, Esq., regarding the note. An answer was provided to the Jury. The Question and Answer provided was marked for identification as Court's Exhibit 16 and ADMITTED. At the hour of 4:55 p.m. the Jury presented another note to the Court indicating that they were still deadlocked. The Court again held a telephonic conference with counsel regarding the note. Court and counsel agreed to release the Jury for the evening with the understanding that they would return at 9:00 a.m., September 2, 2010, to continue deliberations. Court noted there is a possibility of an Allen Charge being given after further deliberations. The Note was marked for identification as Court's Exhibit 17 and ADMITTED. Court thanked and excused the alternates and ORDERED, trial CONTINUED. CUSTODY CONTINUED TO: 09/02/10 9:00 AM ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;

Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. 10:00 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: Court and counsel questions Juror No. 6 as to what she may have observed on the elevator when reporting to Court to resume the trial this morning. Court canvassed Deft. with regard to his right not to testify. JURY PRESENT: Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY: Jury Instructions and Verdict forms settled on the record. JURY PRESENT: Court instructed the Jury. Closing arguments by Ms. Graham and Ms. Palm; rebuttal by Mr. Lalli. OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm orally moved the Court for a mistrial. Arguments by counsel. COURT ORDERED, Motion DENIED; the totality of the circumstances do not warrant a mistrial at this time. JURY PRESENT: At the hour of 5:45 p.m., the Jury retired to deliberate; however, due to the lateness of the hour, the Jury elected to go home and return in the morning to begin deliberations. COURT ORDERED, trial continued. CUSTODY CONTINUED TO: 09/01/10 9:00 AM ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. 9:43 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm is requesting a limited Jury Instruction regarding the testimony by the witness, Cheryl Morris, where she mentioned the killing of a person by cutting them in the sternum area. The medical records of the victim were also discussed. The parties have reached an agreement with regard to the said records and a stipulation will be read to the Jury by the Court. Stipulation marked as Court's Exhibit 14 and ADMITTED. JURY PRESENT: Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY: Juror No. 2 requested to address the Court regarding a procedural issue. The Juror presented his question to the Court and it was answered by the Court and counsel. JURY PRESENT: Testimony and exhibits presented (see worksheets). 5:30 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED. CUSTODY CONTINUED TO: 08/31/10 9:45 AM ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. 11:45 a.m. Jury Trial resumed. Testimony and evidence presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY: State is objecting to a demonstration by the witness, George Schiro, and Ms. Palm as to how the wound to the victim may have been inflicted. COURT ORDERED, the demonstration may continue. JURY PRESENT: Testimony and evidence presented (see worksheets). 6:30 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED. CONTINUED TO: 08/30/10 9:30 AM ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;
Journal Entry Details:
Christopher Lalli, Chf Dept DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. 10:00 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: Court and counsel discuss the issues surrounding the video of Deft.'s interview with the police and the redactions made by the State. Ms. Palm would like to have certain information added back to the disc. JURY PRESENT; Testimony and exhibits presented (see worksheets). 5:30 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED. CUSTODY CONTINUED TO: 08/27/10 11:00 AM ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;
Journal Entry Details:
Christopher Lalli, Chf Dept DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. 9:43 a.m. Jury Trial commenced. Court and counsel continue Voir Dire examination of the prospective Jurors. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Colloquy regarding redaction issues with regard to the video of Deft.'s interview with the police. PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continues. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Court canvassed Prospective Juror No. 0210. For the reasons stated on the record, COURT ORDERED, Prospective Juror No. 0210 shall be EXCUSED. PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continues. Jury and two (2) alternates selected and sworn. Clerk read the Second Amended Information to the Jury and stated the Deft.'s plea thereto. Opening statements by Mr. Lalli and Ms. Palm. Testimony and exhibits presented (see worksheets). 5:35 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED. CUSTODY CONTINUED TO: 08/26/10 10:00 AM ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. 10:30 a.m. Jury Trial resumed. Court and counsel continue Voir Dire examination of the prospective Jurors. 5:00 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED. CUSTODY CONTINUED TO: 08/25/10 9:30 AM ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the

State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. 10:21 a.m. Jury Trial commenced. Court and counsel begin Voir Dire examination of the prospective Jurors. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Court canvassed Juror No. 0229 for the reasons stated on the record. PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continued. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Ms. Palm is seeking to admit evidence pertaining to the victim's Mental Health condition and history. Colloquy regarding the excerpts from the victim's medical records. Excerpts from Medical Records of Victim marked for identification and ADMITTED as Court's Exhibit 1. Deft.'s Proposed Jury Instructions FILED IN OPEN COURT. PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continued. 5:35 a.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED. CUSTODY CONTINUED TO: 08/24/10 10:00 AM ;

09/14/2010 **Status Check** (8:15 AM) (Judicial Officer: Villani, Michael)
09/14/2010, 09/16/2010
Matter Continued; New Trial Date
Matter Heard;
Journal Entry Details:
Upon inquiry, counsel noted today is only on to reset the trial. State did indicate Court had previously approved them to speak with Dr. Benjamin which they have not, but still reserve the right to do so. Colloquy regarding dates as Deft. did reserve his speedy trial rights. COURT ORDERED, trial RESET. CUSTODY (NDC) 1/18/10 8:15 AM CALENDAR CALL 1/24/10 10:00 AM TRIAL BY JURY;
Matter Continued; New Trial Date
Matter Heard;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is not present. Motion to Withdraw FILED IN OPEN COURT. Conference at the Bench. Court directed the Court Clerk to contact Drew Christensen for appointment of counsel. Ms. Palm advised she has already been in contact with him; colloquy. COURT ORDERED, Motion to Withdraw GRANTED; Patricia Palm is APPOINTED as counsel of record on this case. COURT FURTHER ORDERED, matter set for status check. Court noted Ms. Palm has requested the trial transcripts. CUSTODY CONTINUED TO: 09/16/10 8:15 AM ;

09/28/2010 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 09/24/2010 Notice of Motion
Notice of Motion and Motion by Defendant O'Keefe for a Reasonable Bail
Granted; Notice of Motion and Motion by Defendant O'Keefe for a Reasonable Bail
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. For the reasons stated on the record, Ms. Palm is requesting that bail be set for Deft. in a reasonable amount. Argument by Mr. Lalli. Court noted that Deft. was denied his right to a speedy trial due to scheduling issues so there was good cause for the delay. However, due to the nature of this case, this Court will not grant Deft. an O.R. Release but will instead set bail. COURT ORDERED, Bail set in the amount of $500,000.00 with House Arrest (H.A.). If Deft. violates any portion of the H.A., he shall be immediately REMANDED until trial. Mr. Lalli to prepare the Order. CUSTODY ;

01/13/2011 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 01/03/2011 Notice of Motion
Notice of Motion and Motion by Defendant O'keefe to Preclude the State from Introducing at Trial Improper Evidence and Argument
Matter Heard; Notice of Motion and Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Improper Evidence and Argument
Journal Entry Details:

Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Ms. Palm advised there are five different arguments. 1. State should be precluded from introducing evidence of argument to show that the alleged victim, Victoria Whitmarsh, testified against O'Keefe in the prior felony domestic battery case (C207835): Arguments by counsel. COURT ORDERED, Motion DENIED as to this issue. 2. Based upon the most recent and much expanded testimony of Cheryl Morris and argument relating thereto, this Court should reconsider its previous ruling and preclude or

limit the testimony and argument: Arguments by counsel regarding this issue and more specifically, regarding the previous testimony that O'Keefe killed people, that O'Keefe was kicked out of the trailer, and that the victim slept behind a locked door. COURT ORDERED, with regard to the last two issues, they will be excluded. All other issues are areas of impeachment. 3. The State should be precluded from introducing evidence of the costs related to the expert witnesses and improperly disparaging these experts: Arguments by counsel. COURT ORDERED, the Court will allow the testimony; however, counsel are to make sure the Jurors know there were prior hearing, which added to the experts' costs. 4. This Court should preclude the State from arguing or introducing evidence related to domestic violence syndromes, effects, or dynamics or the general cause of fighting against domestic violence: Arguments by counsel. COURT ORDERED, decision DEFERRED until the hearing on the other motions. 5. This Court should preclude the State from inquiring about O'Keefe's 2005 convictions for non-support of his children, as these do not qualify for admission under NRS 50.095: Ms. Palm advised that the State agrees with her on this issue, the convictions are inadmissible. CUSTODY ;

01/18/2011 **Calendar Call** (8:15 AM) (Judicial Officer: Villani, Michael)
01/18/2011, 01/20/2011
Matter Continued;
Matter Heard;
Matter Continued;
Matter Heard;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. State announced ready. Ms. Palm advised she could not announce ready at this time as she has some Motions pending. The Motion are set to be heard on January 20, 2011, and depending on the outcome, she may or may not be ready for trial; colloquy. COURT ORDERED, Calendar Call CONTINUED. CUSTODY CONTINUED TO: 01/20/11 8:15 AM ;

01/20/2011 **Motion to Dismiss** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 01/07/2011 Notice of Motion
Notice of Motion and Motion by Defendant O'Keefe to Dismiss on Grounds of Double Jeopardy bar and Speedy Trial Violation and, Alternatively, to Preclude State's New Expert Witness, Evidence and Argument Relating to the Dynamics or Effects of Domestic Violence and Abuse
Denied in Part;

01/20/2011 **Motion in Limine** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 01/06/2011 Notice of Motion
Notice of Motion and Motion In Limine To Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 And Evidence of Domestic Violence Pursuant to 48.061
Deferred Ruling;

01/20/2011 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Matter Heard;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, Elizabeth Mercer, Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Ms. Palm requested a continuance for the purpose of preparing a Writ. Arguments by counsel. COURT ORDERED, Request DENIED. Notice of Motion and Motion by Deft. O'Keefe to Dismiss on Grounds of Double Jeopardy Bar and Speedy Trial Violation and, Alternatively, to Preclude State's New Expert Witness, Evidence, and Argument Relating to the Dynamics or Effects of Domestic Violence and Abuse: There are three (3) parts to this Motion . . . 1. Double Jeopardy Bars Must Apply to Prevent Retrial: Arguments by counsel. COURT ORDERED, Motion DENIED; the Court does not find any intentional misconduct on behalf of the State. 2 The State must be Precluded from Introducing New Evidence and Expert Witness Testimony which was not Previously Timely Noticed and which is Otherwise Inadmissible: Arguments by counsel. COURT FINDS, that as far as the timeliness of the notice, it was timely. 3. O'Keefe is Entitled to a Dismissal Based on the Violations of his Constitutional and Statutory Speedy Trial Rights: Arguments by counsel. COURT FINDS, no violation of Deft.'s speedy trial rights in this case and, therefore, ORDERED, Motion DENIED. State's Notice of Motion and Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to 48.061: Colloquy regarding a discovery issue. Arguments by

counsel. COURT ORDERED, decision DEFERRED. Matter set for Petrocelli Hearing. Calendar Call: COURT ORDERED, Trial date VACATED and RESET. Court noted it DEFERRED ruling on Item No. 4 of Deft.'s Motion to Preclude the State from Introducing at Trial Improper Evidence and Argument , which was heard on January 13, 2011, No. 3 above, and the Motion in Limine. CUSTODY 04/12/11 10:00 AM PETROCELLI HEARING 05/31/11 8:15 AM CALENDAR CALL 06/06/11 1:00 PM JURY TRIAL ;

01/24/2011 *CANCELED* **Jury Trial** (1:00 PM) (Judicial Officer: Villani, Michael)
Vacated - per Judge

04/07/2011 **Status Check** (8:15 AM) (Judicial Officer: Villani, Michael)
Trial Preparation
Matter Heard;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Upon Court's inquiry regarding whether or not there were any impediments that would keep this case from proceeding to trial on June 6, 2011, other than a STAY by the Supreme Court. Mr. Lalli and Ms. Palm advised this all issues are resolved and they are ready to go. Mr. Lalli advised there is a Petrocelli Hearing on April 12; he anticipates twelve (12) to fifteen (15) witnesses. Mr. Lalli is requesting, for purposes of the Petrocelli Hearing, that the Court accept an offer of proof in lieu of live testimony. Some of the witnesses live out of State and due to the State's economic situation, it makes more sense to have them present at the trial. Ms. Palm advised she was not prepared to argue this issue today; colloquy. If the witnesses are out-of-state, they do not need to appear at this time; however, if there is an offer of proof issue, those witnesses will be heard at a continued Petrocelli hearing. CUSTODY ;

04/27/2011 **Hearing** (9:30 AM) (Judicial Officer: Villani, Michael)
04/27/2011, 05/11/2011
Motion In Limine To Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 And Evidence of Domestic Violence Pursuant to 48.061 . . . Petrocelli Hearing
Matter Heard; Motion In Limine To Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 And Evidence of Domestic Violence Pursuant to 48.061
Reserve Ruling;

Matter Heard; Motion In Limine To Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 And Evidence of Domestic Violence Pursuant to 48.061
Reserve Ruling;

Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Ms. Palm presented a Request for Transcripts for today's proceedings; the Order was SIGNED and FILED in open court. 9:51 a.m. Petrocelli Hearing commenced. Ms. Palm indicated there was an issue with an expert; colloquy. Court noted a hearing with regard to the expert shall be set in the near future. Exclusionary Rule INVOKED; testimony and exhibits presented (see worksheets). 1:46 p.m. Hearing concluded. COURT ORDERED, Argument on the Bad Acts Motion shall be CONTINUED to May 11, 2011. The Court will also hear argument on Ms. Palms Motion for Expert at that date. CUSTODY CONTINUED TO: 05/11/11 9:30 AM ;

05/11/2011 **Motion to Withdraw as Counsel** (9:30 AM) (Judicial Officer: Villani, Michael)
Events: 04/29/2011 Motion to Withdraw As Counsel
Granted;

05/11/2011 **All Pending Motions** (9:30 AM) (Judicial Officer: Villani, Michael)
Matter Heard;
Journal Entry Details:
NOTICE OR MOTION AND MOTION IN LIMINE TO ADMIT EVIDENCE OF OTHER BAD ACTS PURSUANT TO NRS 48.045 AND EVIDENCE OF DOMESTIC VIOLENCE PURSUANT TO 48.061 . . . PETROCELLI HEARING . . . PALM'S MOTION TO WITHDRAW AS COUNSEL Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Ms. Palm advised there has been an irremediable breakdown in the attorney-client relationship and, therefore, she is seeking to withdraw as counsel of record; colloquy. Conference at the

Bench. COURT ORDERED, Motion to Withdraw as Counsel GRANTED. Upon Court's inquiry, Deft. stated that he would like to contact his family to see if he can retain counsel. In the meantime, Court Clerk to contact Drew Christensen. COURT FURTHER ORDERED, matter set for status check. The Bad Acts Motion and the Petrocelli Hearing will be re-scheduled after confirmation of Deft.'s new counsel. COURT ORDERED, trial dates VACATED. CUSTODY 06/02/11 8:15 AM STATUS CHECK: CONFIRMATION OF COUNSEL ;

05/31/2011 *CANCELED* **Calendar Call** (8:15 AM) (Judicial Officer: Villani, Michael)
Vacated - per Judge

06/02/2011 **Status Check** (8:15 AM) (Judicial Officer: Villani, Michael)
Confirmation of Counsel
Matter Heard; Confirmation of Counsel
Journal Entry Details:
Liz Mercer, Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present. Mr. Maningo CONFIRMED as counsel of record; he advised that he has not received the file from Ms. Palm yet but has spoke to her. Colloquy regarding a trial date. The file in this matter is voluminous; therefore, Mr. Maningo would like to quickly glance through the files and speak with Deft. before setting a trial date. COURT ORDERED, matter set for status check. COURT ORDERED, trial date VACATED. CUSTODY 07/21/11 8:15 AM STATUS CHECK: RESET TRIAL DATE ;

06/06/2011 *CANCELED* **Jury Trial** (1:00 PM) (Judicial Officer: Villani, Michael)
Vacated - per Judge

07/21/2011 **Status Check** (8:15 AM) (Judicial Officer: Villani, Michael)
Status Check: File/Reset Trial Date and Date for Petrocelli Hearing
Hearing Set; Status Check: File; Reset Trial Date; and Date for Petrocelli Hearing
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present. This is the time set for the status check to reset the trial; Mr. Maningo advised he is prepared to set a trial date. Court noted the trial is expected to last a week and a half. COURT ORDERED, matter set for trial; this will be a FIRM setting. Mr. Lalli advised a date also needs to be set for argument on the State's Motion for Bad Acts; colloquy. COURT ORDERED, matter set for hearing. CUSTODY 09/23/11 10:00 AM STATE'S MOTION FOR BAD ACTS 06/05/12 8:15 AM CALENDAR CALL 06/11/12 1:00 PM JURY TRIAL ;

10/13/2011 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 10/03/2011 Motion to Dismiss Counsel
Pro Se Motion to Dismiss Appointed Counsel and for Faretta Hearing
Off Calendar; Pro Se Motion to Dismiss Appointed Counsel and for Faretta Hearing
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State and Lance Maningo, present on behalf of Deft. O'Keefe, who is also present. Court noted that Deft. is seeking to have Mr. Maningo removed from his case. Upon Court's inquiry, Deft. stated that he an Mr. Maningo have reached an agreement on two (2) issues that he feels are very relevant and important to his case; he would like Mr. Maningo to file a motion so the issues can be argued. Mr. Maningo's assistant has met with Deft. and advised something will be filed within the next two (2) weeks. Mr. Maningo advised he and the Deft. have had some disagreements on how to defend the case. The parties have reached an agreement on how they are going to proceed. Deft. has agreed to WITHDRAW his motion. Therefore, COURT ORDERED, motion OFF CALENDAR. CUSTODY ;

11/08/2011 **Motion to Clarify** (8:15 AM) (Judicial Officer: Brennan, James)
Motion to Place on Calendar
Granted; Motion to Place on Calendar
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State and Jennifer Amelburu, Esq., present on behalf of Deft. O'Keefe, who is also present. Court noted that the Clark County Detention Center (CCDC) forwarded $175.00 to the Clark County Clerk. Ms. Amelburu

advised there is no order on file with the Clark County Clerk for the return of fees; therefore, she has prepared one. There being no objection by the State, COURT ORDERED, Motion GRANTED; Order signed in open court. CUSTODY ;

12/08/2011 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 11/28/2011 Motion
Motion to Place on Calendar
Matter Heard;

12/08/2011 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
12/08/2011, 12/16/2011
Events: 11/28/2011 Motion to Withdraw As Counsel
Pro Se Motion to Withdraw Counsel and Faretta Canvass
Matter Continued;
Granted;
Matter Continued;
Granted;

12/08/2011 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Deft.'s Motion to Place on Calendar . . . Deft.'s Motion to Withdraw Counsel
Matter Heard;
Journal Entry Details:
DEFT.'S MOTION TO PLACE ON CALENDAR . . . DEFT.'S PRO PER MOTION TO WITHDRAW COUNSEL Christopher Lalli, Chf Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present. DEFT.'S MOTION TO PLACE ON CALENDAR: This Motion was filed by Mr. Maningo for the purpose of addressing Deft.'s Motion to Withdraw Counsel and Faretta Canvass. Court acknowledged said Motion. DEFT.'S MOTION TO WITHDRAW COUNSEL: Court advised it reviewed Deft.'s Motion. Colloquy regarding the Motion and the reasons Deft. wishes to proceed pro se. Mr. Lalli advised that Deft. does have a right to represent himself and the State would request that the Court complete a Faretta canvass. COURT ORDERED, matter set for Faretta Canvass; motion CONTINUED. COURT FURTHER ORDERED, the Bad Acts Motion is VACATED and will be re-set after the Faretta Canvass. CUSTODY 12/16/11 8:45 AM FARETTA CANVASS ;

12/16/2011 **Faretta Canvass** (8:45 AM) (Judicial Officer: Villani, Michael)
Matter Heard;

12/16/2011 **All Pending Motions** (8:45 AM) (Judicial Officer: Villani, Michael)
Deft.'s Motion to Withdraw Counsel . . . Faretta Canvass
Matter Heard;
Journal Entry Details:
DEFT.'S MOTION TO WITHDRAW COUNSEL AND FARETTA CANVASS . . . FARETTA CANVASS Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present. Upon Court's inquiry, Deft. stated that he still wants to represent himself in this matter. Court conducted a Faretta Canvass and FINDS, Deft. competent to WAIVE his constitutional right to be represented by counsel. COURT FURTHER FINDS, that Deft. is WAIVING such right, freely, knowingly, and voluntarily. Colloquy regarding stand-by counsel and an investigator. COURT ORDERED, Deft.'s pro se Motion to Withdraw Counsel is GRANTED. Mr. Maningo shall be APPOINTED as STAND-BY COUNSEL; he advised Investigator, Craig Retke, has already been appointed and approved in this matter. Deft. indicated that he would like to keep Retke as his investigator. Deft. requested the Court sign an Order for copies from inmate's account, which was presented to the Court for consideration; colloquy. Court directed Deft. to file the appropriate motion. Mr. Lalli advised the hearing on the Bad Acts motion needs to be finished. The hearing was started back on April 27, 2011, and continued to May 11, 2011. On May 11, 2011, Patricia Palm, Esq., withdrew so the Motion now needs to be rescheduled. COURT ORDERED, motion set for hearing. CUSTODY 02/17/12 8:45 AM CONTINUED HEARING: MOTION IN LIMINE TO PRESENT EVIDENCE OF OTHER BAD ACTS ;

02/17/2012 **Hearing** (8:45 AM) (Judicial Officer: Villani, Michael)
Continued Hearing: Motion in Limine to Present Evidence of Other Bad Acts (Filed 01/06/11)

Deferred Ruling; Motion in Limine to Present Evidence of Other Bad Acts (Filed 01/06/11)
Journal Entry Details:
Liz Mercer, Dep DA, and Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se with stand-by counsel, Lance Maningo. Court noted this is the continued hearing on State's Motion in Limine to present Evidence of Other Bad Acts. Argument by Ms. Mercer and Deft. COURT ORDERED, decision DEFERRED as the Court would like to review this matter further. Deft. advised that he needs to have an investigator appointed; colloquy. Skye Campbell is present today to be appointed. There being no opposition by the State, COURT ORDERED, request GRANTED, Skye Campbell shall be appointed as the investigator in this case. Court directed Deft. to submit an Order. CUSTODY ;

03/01/2012 **Decision** (8:15 AM) (Judicial Officer: Villani, Michael)
Decision: Motion in Limine to Present Evidence of Other Bad Acts
Decision Made;
Journal Entry Details:
Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to NRS 48.061 came before this Court on February 17, 2012. The Court deferred the matter, In accordance with NRS 48.045, evidence of other bad acts is only admissible where three requirements are met: (1) the incident is related to the crime charged; (2) the act is proven by clear and convincing evidence; and (3) the evidence is more probative than prejudicial. Cipriano v. State, 111 Nev. 534, 894 P.2d 347 (1995). The COURT FINDS that the State established by clear and convincing evidence the facts and circumstances of the offense occurring on or about April 2, 2004, to which Defendant received a felony conviction in C207835. The COURT FURTHER FINDS that the admission of facts and circumstances of the other cases (03M00410X, 03M25901X, 03M26791X, C581783A, and C202793) State requested would have a prejudicial effect which would outweigh the probative value. Therefore, COURT ORDERED Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to NRS 48.061 is GRANTED IN PART and DENIED IN PART. The State is directed to submit a proposed order consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved pursuant to EDCR 5.90(e). Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. CUSTODY 03/15/12 8:15 AM STATUS CHECK CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Chief Deputy D.A., Christopher Lalli and Deputy D.A., Liz Mercer. ;

03/15/2012 **Status Check** (8:15 AM) (Judicial Officer: Villani, Michael)
Status Check: Order (Decision 03/01/12)
Matter Heard; Order (Decision 03/01/12)
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe present pro se. Court noted that it received the Order Granting, in Part, the State's Motion to Admit Evidence of Other Bad Acts on March 12, 2012; it was filed on March 13, 2012. MATTER RECALLED: Only Deft. is present. Court provided Deft. with a copy of the above-mentioned Order. CUSTODY ;

03/29/2012 **Motion to Dismiss** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 03/16/2012 Notice of Motion
Notice of Motion and Motion to Dismiss Based Upon Violation(s) of the Fifth Amendment Component of the Double Jeopardy Clause, Constitutional Collateral Estoppel and Alternatively, Claiming Bes Judicata, Enforceable by the Fourteenth Amendment Upon the States Precluding State's Theory of Prosecution by Unlawful Intentional Stabbing with Knife, the Alleged Battery Act Described in the Amended Information
Denied; Deft.'s Motion to Dismiss Based upon Violations
Journal Entry Details:

Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se. Deft. filed a Motion to Seal Records on March 22, 2012; hearing is set for April 10, 2012. Court noted there is a Receipt of Copy but it is unsigned and there is no Certificate of Mailing. Mr. Lalli advised that since the State is now aware of said Motion, he will file the appropriate response; he requested that he be given until April 5, 2012, to file a response. COURT SO ORDERED. Further, Deft. advised he did not receive a filed stamped copy of the State's Opposition to his Motion to Dismiss Based upon Violations within the seven (7)-day time period specified in EDCR 3.20. Court noted the Motion to Dismiss was filed on March 16,

2012, and the Opposition was filed by the State on March 21, 2012. Argument by Deft. Mr. Lalli submitted the matter on his Opposition. COURT FINDS, there is no issue of double jeopardy in this particular matter and the State is not precluded from introducing bad-act evidence under NRS 48.045. The Nevada Supreme Court reversal does not preclude a retrial. Therefore, COURT ORDERED, motion DENIED. State to prepare the Order. ;

04/10/2012 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
04/10/2012, 04/26/2012
Events: 03/22/2012 Notice of Motion
Notice of Motion and Motion to Seal Records
Matter Continued; Deft.'s Motion to Seal Records
Denied;
Matter Continued; Deft.'s Motion to Seal Records
Denied;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe present pro se. This is the time set for hearing on Deft.'s Motion to Seal Records. Court noted it was just handed a copy of the State's Opposition, which it has not had an opportunity to review. Mr. Lalli advised that Deft. has also filed a Motion to Admit Evidence of Polygraph Examination it is set for hearing on April 12; he wants the examination to be admitted during the upcoming trial. Mr. Lalli advised that he cannot take a position on this issue until he is able to review the examination, which he just received. During the examination Deft. made a couple of statements which need further investigation. Mr. Lalli would like some of the supporting documentation and would also like to speak with Deft.'s former counsel, Randall Pike, Asst. SPD, regarding the examination. However, Deft. would need to WAIVE the attorney-client privilege. Deft. makes statements regarding the Polygraph Examination; he stated there was also a video. Mr. Lalli requested a copy of same. Court advised it needs additional time to review the State's Opposition to the Motion to Seal. Therefore, COURT ORDERED, Motion to Seal Records CONTINUED; the hearing date (April 12, 2012) on the Motion to Admit Evidence of Polygraph is VACATED and the Motion shall be set for a status check. Deft. shall file a supplement to his Motion to Seal by April 17, 2012; Court directed him to specifically address NRS 179.245(4). State may then supplement its Opposition. COURT FURTHER ORDERED, Deft. to provide a release to his Investigator so the video of the polygraph can be provided to Mr. Lalli. Upon Court inquiry as to whether or not Deft. would waive the attorney-client privilege, Deft. stated he was not prepared to make a decision on that issue at this time. Court urged Deft. to consult with stand-by counsel, Lance Maningo, regarding the above-named motions before making a decision. CUSTODY CONTINUED TO: 04/26/12 8:15 AM 04/26/12 8:15 AM STATUS CHECK: MOTION TO ADMIT EVIDENCE OF POLYGRAPH ;

04/17/2012 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 04/03/2012 Motion
Motion for Complete Rough Draft Transcript
Granted; Deft.'s Motion for Complete Rough Draft Transcript
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe present pro se. This is the time set for hearing on Deft.'s Motion for Complete Rough Transcript. Court noted Deft. is requesting a transcript of the March 29, 2012, hearing. Mr. Lalli advised the State does not oppose said Motion. COURT ORDERED, moton GRANTED; Deft. to prepare an Order. Court noted it was provided an Order from the Nineth Circuit Court of Appeals; the signature page is missing. Deft. stated that on the last page of the Order, which the Court does not have, the Attorney General's office has been contacted, a briefing schedule has been set, and if he so choses, a Federal attorney will be appointed for him. Colloquy regarding same. Mr. Lalli advised that he does not believe the Order pertains to the instant case. Deft. has another case with a Feberal Writ of Habeas Corpus on an underlying conviction. CUSTODY ;

04/26/2012 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 03/29/2012 Notice of Motion
Pro Se Notice of Motion and Motion to Admit Evidence of Polygraph Examination Results
Denied;

04/26/2012 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Deft.'s Motion to Seal Records . . . Deft.'s Motion to Admit Evidence of Polygraph Examination Results

Matter Heard;
Journal Entry Details:
DEFT.'S MOTION TO SEAL RECORDS . . . DEFT.'S MOTION TO ADMIT EVIDENCE OF POLYGRAPH EXAMINATION Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se. MOTION TO SEAL RECORDS: Deft. advised that he is seeking to seal his dismissed and acquitted cases; argument. Mr. Lalli advised that he wanted to correct some things in Deft.'s motion; Deft. represented that C202793 was dismissed but he was found guilty, in 03M00410X Deft. represented that it was dismissed but he pled guilty to one of the Counts, and in 03M26791X the case was dismissed pursuant to negations. Argument by Mr. Lalli; based on the Cavaricci case, Mr. Lalli believes it would be an abuse of discretion for the District Court to seal the records of an individual who has an active current criminal record. COURT ORDERED, motion DENIED. State to prepare the Order. Court noted that an Order from the Ninth Circuit Court of Appeals, dated April 13, 2012, was provided to it last date. Colloquy regarding said Order and whether or not Deft. believes said Order STAYS the instant case. Mr. Lalli advised the Order is from a Pre-Trial Habeas Petition in Federal Court, which challenges the instant case and may be considered a collateral attack. Therefore, the instant case would not be STAYED. MOTION TO ADMIT EVIDENCE OF POLYGRAPH EXAMINATION: Court noted that Polygraph Examinations are typically not admitted into evidence because there is a dispute as to the reliability of said examinations and, therefore, this Court does not think the admission of such an examination would not be appropriate. Further, the Court believes that entering said examination results would adversely affect Deft.'s constitutional rights for a fair trial in this case. COURT ORDERED, motion DENIED. CUSTODY ;

05/29/2012 **Request** (8:15 AM) (Judicial Officer: Villani, Michael)
State's Request: Trial Ready
Matter Heard; Status Check: Trial Readiness
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State and Deft. O'Keefe, present pro se. Mr. Lalli advised he had this matter placed on calendar because the trial is less than two (2) weeks away and he would like to obtain some assurance from Deft. that he will be ready for trial. The State is ready to go. Mr. Lalli has another case that is also set for the same day, but his preference is to go ahead with this one. Upon Court's inquiry as to whether Deft. was ready to proceed to trial, Deft. stated some important mail from the Ninth Circuit has been lost; colloquy. Court advised barring any unforeseen circumstances, this case will proceed to trial as scheduled. CUSTODY ;

06/05/2012 **Calendar Call** (8:15 AM) (Judicial Officer: Villani, Michael)
Matter Heard;

06/05/2012 **Motion to Continue Trial** (8:15 AM) (Judicial Officer: Villani, Michael)
Events: 06/01/2012 Motion to Continue Trial
Deft's Motion to Continue Trial
Denied;

06/05/2012 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Calendar Call . . . Deft.'s Motion to Continue Trial
Matter Heard;
Journal Entry Details:
CALENDAR CALL . . . DEFT.'S MOTION TO CONTINUE TRIAL Christopher Lalli, Chf Def. DA, present on behalf of the State and Deft. O'Keefe present pro se. Also present: Lance Maningo, Esq., Deft.'s stand-by counsel and Ryan Norwood, Asst Fed PD. Upon Court's inquiry as to whether or not the parties were ready for trial, Mr. Lalli advised the State is ready. However, Deft. stated that he is claiming a Federal violation of his Constitutional Rights and has an open case in the Ninth Circuit Court of Appeals and would like the instant case STAYED until the conclusion of his Federal case. Further, Deft. is not totally prepared for trial at this time because he devoted much of his time to his Federal case; therefore, Deft. orally moved for a continuance of the trial. Colloquy regarding same. Statement by Mr. Maningo; he advised he has nothing to add only that Mr. Norwood is present today to inform the Court about what is going on in Deft.'s Federal case. Mr. Lalli advised that he had this matter placed on calendar last week to inform Deft. and the Court that he had two trials set for the same day and that if Deft. was ready to proceed to trial in the instant case, Mr. Lalli would have his other trial continued. Deft. stated that he was ready and the Court advised that absent a STAY from the Ninth Circuit, this matter would be proceeding to trial. The State has been

meeting with witnesses and subpoenas have been served. Therefore, the State is opposed to a continuance at this time for the reasons stated on the record. Statements by Mr. Norwood and colloquy about the case before the Ninth Circuit. COURT ORDERED, Deft.'s oral motion to continue the trial is DENIED. If the Ninth Circuit issues a stay on or before Friday, June 8, 2012, this case will be stayed. If not, the matter will proceed to trial on Monday, June 11, 2012, at 9:30 a.m. With regard to the Motion to Continue Trial filed by Mr. Maningo, which was set for June 19, 2012, the Court advised it reviewed said Motion. There being no good cause to continue the trial, COURT ORDERED, Motion ADVANCED and DENIED. CUSTODY ;

06/11/2012 **Jury Trial** (9:30 AM) (Judicial Officer: Bonaventure, Joseph T.)
06/11/2012-06/15/2012

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo. 9:15 a.m. Jury Trial resumed. JURY PRESENT: Court instructed the Jury. Closing arguments by Ms. Mercer and Deft.; rebuttal by Mr. Lalli. At the hour of 11:09 a.m., the Jury retired to deliberate. Court thanked and excused the alternates. At the hour of 1:58 p.m., the Jury RETURNED. Ms. Mercer, Deft, and Mr. Maningo are present. The verdict is as follows: GUILTY of MURDER of the SECOND DEGREE with USE OF A DEADLY WEAPON (F). Court thanked and excused the Jury. COURT ORDERED, matter set for sentencing. 2:05 p.m. Court ADJOURNED. CUSTODY 08/16/12 8:15 AM SENTENCING ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo. 10:04 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: The State is requesting that a Stipulation pertaining to the excerpts from the medical records of the victim, that was read to the Jury at the previous trial and remarked for identification as Court's Exhibit No. 9, be read to this Jury. Deft. has his own version of the Stipulation that he would like read to the Jury and also requested that it be marked as a Defense Exhibit so the Jury can take it back to the Jury room with them; it is marked for identification as Court's Exhibit No. 6. The parties cannot agree on which one should be read; Mr. Lalli objects to it being admitted as a Defense Exhibit. Arguments by Mr. Lalli and Deft. COURT ORDERED decision DEFERRED. Deft. would like to play a 911 call, he presented the disc to the Court and it was marked for identification as Court's Exhibit No 7. Mr. Lalli advised he has a 911 call from a witness they could not locate, State's Exhibit No. 129. will not be played because he cannot lay the proper foundation. It was played at the first trial so he will play it if there is a Stipulation; however, with regard to Court's Exhibit No. 7, the person who made the call was not called as a witness so it is hearsay and, therefore, cannot be played. Arguments by Mr. Lalli and Deft. COURT ORDERED, neither of the above-mentioned 911 calls will be played for the Jury as there is no foundation. 10:21 a.m. the JURY is PRESENT. Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY: The Court received a note from Juror No. 12. The note was marked for identification as Court's Exhibit No. 8. Juror No. 12 was questioned outside the presence of the Jury. COURT ORDERED, this Juror shall remain. Further discussion about the Stipulation; Court advised he could either read it to the Jury or it can be admitted as a Defense Exhibit but it cannot do both. Deft. agreed to have it read to the Jury at the appropriate time. JURY PRESENT: Testimony and exhibits presented (see worksheets). Stipulation read to the Jury. 2:30 p.m. Jury dismissed for the day. OUTSIDE THE PRESENCE OF THE JURY: Deft. orally moved for a directed verdict. Arguments by Mr. Lalli and Deft. COURT ORDERED, motion DENIED. Jury Instructions and Verdict form settled on the record. 3:36 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED. CUSTODY CONTINUED TO: 06/15/12 9:00 AM ;

Trial Continues;
Trial Continues;
Trial Continues;

Trial Continues;
Verdict;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo. 9:50 a.m. Jury Trial resumed. Testimony and exhibits presented (see worksheets). 4:03 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED. CUSTODY CONTINUED TO: 06/14/12 9:30 AM ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo. 10:02 a.m. Jury Trial resumed. PROSPECTIVE JURORS PRESENT: Court and Deft. continued Voir Dire examination of the Prospective Jurors. Jury and two (2) alternates selected and sworn. Clerk read the Second Amended Information to the Jury and stated the Deft.'s plea thereto. OUTSIDE THE PRESENCE OF THE JURY: Deft. stated for the record that he believes that proceeding to trial at this time constitutes a true double jeopardy violation and is also in violation of the laws and treaties of the United States of America on double jeopardy, due process, and collateral estoppel is implied. Court noted for the record Deft.'s continuing objection with regard to the above. Deft. further objected to the battery domestic violence evidence and testimony. Court again noted for the record Deft.'s continuing objection with regard to this issue as well. JURY PRESENT: Opening Statements by Mr. Lalli and Deft. Exclusionary Rule INVOKED. Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY: Court canvassed Deft. with regard to his right not to testify. 5:00 a.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED. CUSTODY CONTINUED TO: 06/13/12 9:30 AM ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo. 10:00 a.m. Trial commenced. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Argument by Mr. Lalli regarding Judge Villani's ruling on the State's Bad Acts Motion. Deft. requested the Court take Judicial Notice of certain documents, which were marked for identification as Court's Exhibit No. 2 and ADMITTED. Argument by Deft. with regard to the Bad Acts; he orally moved the Court for a dismissal for the reasons stated on the record. COURT ORDERED, Motion DENIED. Deft. then requested that all objections be Federalized; colloquy. COURT FURTHER ORDERED, request DENIED. 10:27 a.m. the PROSPECTIVE JURORS PRESENT: Court and Deft. begin Voir Dire examination of the prospective Jurors. Court received a note from Prospective Juror 079, he is ill. COURT ORDERED, this Prospective Juror is RELEASED; the note was marked for identification as Court's Exhibit No. 1 and ADMITTED. 5:14 a.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED. CUSTODY CONTINUED TO: 06/12/12 9:30 AM ;

08/16/2012 **Sentencing** (8:15 AM) (Judicial Officer: Villani, Michael)
08/16/2012, 08/28/2012
Matter Continued;
Defendant Sentenced;
Journal Entry Details:

Christopher Lalli, Chf Dep DA, present on behalf of the State and Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo. Pursuant to the Jury's verdict, DEFT. ADJUDGED GUILTY OF MURDER OF THE SECOND DECREE WITH USE OF A DEADLY WEAPON (F). Mr. Lalli provided some pictures to the Court of the victim; the pictures were marked for identification as State's Exhibit 1 and ADMITTED. Arguments by Mr. Lalli and Deft. COURT ORDERED, in addition to the $25.00 Administrative Assessment fee, WAIVED if already paid, and the $150.00 DNA Analysis fee including testing to determine genetic markers, WAIVED if already paid, Deft. SENTENCED to a MAXIMUM of THREE (300) MONTHS and a MINIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of

Corrections (NDC), plus a CONSECUTIVE term of a MAXIMUM of TWENTY (20) YEARS and a MINIMUM of EIGHT (8) YEARS for use of a deadly weapon, with ONE THOUSAND THREE HUNDRED NINETY-FOUR (1,394) DAYS credit for time served. Colloquy regarding a possible appeal and the appointing of Mr. Maningo as appellate counsel. Mr. Maningo advised he would like to speak to Deft. regarding the basis for his appeal before he accepts the appointment. COURT ORDERED, matter set for status check; BOND, if any, EXONERATED. NDC (CUSTODY) 09/06/12 8:15 STATUS CHECK: APPOINTMENT OF APPELLATE COUNSEL ;
Matter Continued;
Defendant Sentenced;
Journal Entry Details:
Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se and Lance Maningo, Esq., present as stand-by counsel. Upon Court's inquiry, Deft. stated he just received a copy of the Presentence Investigation (PSI) report this morning and has not had a opportunity to review it; further, he has some questions about the PSI and would like to talk with Mr. Maningo. Therefore, he requested that the matter be continued. Mr. Lalli has no objection to the continuance. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 08/28/12 8:15 AM ;

09/06/2012 **Status Check** (8:15 AM) (Judicial Officer: Villani, Michael)
Status Check: Appointment of Appellate Counsel
Matter Heard; Appointment of Appellate Counsel
Journal Entry Details:
Colleen Brown, Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is not present. Mr. Maningo advised that Deft.'s presence was WAIVED for today last court date; he has received the transcripts for this matter and can CONFIRM as Appellate Counsel. COURT ORDERED, Mr. Maningo is APPOINTED as Appellate Counsel for Deft. NDC ;

01/07/2014 **Petition for Writ of Mandamus** (8:15 AM) (Judicial Officer: Villani, Michael)
Defendant - Petition for a Writ of Mandamus or, in the Alternative, Writ of Coram Nobis
Denied Without Prejudice;

01/07/2014 **Petition to Proceed in Forma Pauperis** (8:15 AM) (Judicial Officer: Villani, Michael)
Defendant - Motion to Waive Filing Fees for Petition for Writ of Mandamus
Denied Without Prejudice;

01/07/2014 **Motion for Appointment of Attorney** (8:15 AM) (Judicial Officer: Villani, Michael)
Defendant - (Ex Parte) Motion to Appoint Counsel
Denied Without Prejudice;

01/07/2014 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Deft.'s Petition for Writ of Mandamus or, in the Althernative, Writ of Coram Nobis . . . Deft.'s Motion to Waive Filing Fees for Petition for Writ of Mandamus . . . Deft.'s Motion to Appoint Counsel
Matter Heard;
Journal Entry Details:
DEFT.'S PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORAM NOBIS . . . DEFT.'S MOTION TO WAIVE FILING FEES FOR PETITION FOR WRIT OF MANDAMUS . . . DEFT.'S MOTION TO APPOINT COUNSEL Gwynneth Smith, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present. Court noted the Deft. filed the above-named pleadings, pro se. The allegations complained of in Deft.'s Petition relate to C202793; therefore, the Petition and the Motions were filed under the wrong case number and Deft. will need to re-file said pleadings in Department XXIII so they may be heard before the appropriate Judge. COURT ORDERED, Petition and Motions DENIED, without prejudice. NDC CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89070-0650. ;

02/04/2014 **Motion** (8:15 AM) (Judicial Officer: Villani, Michael)
Ex-Parte Motion for Production of Documents, (Specific) Papers, Pleadings, and Tangible Property of Deft.

Granted in Part; Ex-Parte Motion for Production of Documents, (Specific) Papers, Pleadings, and Tangible Property of Deft.
Journal Entry Details:
Gwynneth Smith, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present. This is the time set for hearing on the Deft.'s Ex-Parte Motion for Production of Documents, (Specific) Papers, Pleading, and Tangible Property, which he filed pro se. Within Deft.'s pleading he is requesting various documents; COURT ORDERED, Motion GRANTED as it pertains to Deft.'s general request for the documents in counsel's file. However, Deft.'s list of specific requests is DENIED, without prejudice, as he has not set forth the precise reason as to why he needs said documents. NDC CLERK'S NOTE: A copy of this minute order e-mailed to Lance Maningo, Esq. and mailed to Brian O'Keefe #90244, High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89018. ;

02/11/2014

Motion (8:15 AM) (Judicial Officer: Villani, Michael)
Deft.'s Ex-Parte Motion for Reimbursement of Incidental Costs Declaring Defendant Indigent and Granting Forma Pauperis
Denied; Deft.'s Ex-Parte Motion for Reimbursement of Incidental Costs Declaring Defendant Indigent and Granting Forma Pauperis
Journal Entry Details:
Emily Montgomery, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present. This is the time set for hearing on Deft.'s E-Parte Motion for Reimbursement of Incidental Costs Declaring Deft. Indigent and Granting Forma Pauperis, which he filed pro se. COURT ORDERED, Motion DENIED. Court noted that the Court minutes do not reflect any promise by this Court, or anyone else, to reimburse the Deft. for his costs; NRS 12.015(2)(a) does not allow for reimbursement of copy expenses but only court fees. State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is submitted prior to the status check date, it will be VACATED. NDC 03/06/14 8:15 AM STATUS CHECK: ORDER (02/11/14) CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89018. ;

02/27/2014

Motion (8:15 AM) (Judicial Officer: Villani, Michael)
Motion to Modify and/or Correct Illegal Sentence
Denied;
Journal Entry Details:
Court noted the absence of the Defendant as he is currently in the Nevada Department of Corrections (NDC). Court advised it is not hearing oral argument on this motion, noting it reviewed all pleadings. COURT ORDERED, procedural history as set forth by the State ADOPTED. Court finds Defendant is not entitled to a modification of sentence as the sentence imposed was not an illegal sentence and, ORDERED, motion DENIED; State to prepare and submit Order, and matter set for STATUS CHECK. NDC 3/20/14 8:15 AM STATUS CHECK: ORDER OF 2/27/14 ;

03/06/2014

Status Check (8:15 AM) (Judicial Officer: Villani, Michael)
Status Check: Order (02/11/14)
Off Calendar; Order (02/11/14)
Journal Entry Details:
Tyler Smith, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present. This is the time set for the Status Check on the Order from the February 11, 2014, hearing. Court noted the Order was filed on February 28, 2014, and ORDERED, matter OFF CALENDAR. NDC ;

03/18/2014

Motion (8:15 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion for Judicial Notice-the State's Failure to File and Serve Response in Opposition
Denied; Deft.'s Motion for Judicial Notice - The State's Failure to File and Serve Response in Opposition
Journal Entry Details:

Charles Thoman, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present. This is the time set for hearing on Deft.'s Motion for Judicial Notice - the State's Failure to File and Serve Response in

Opposition. The Court noted that the Deft. is incorrect, the State did file an opposition to his previous motion. The Opposition was filed on February 24, 2014, and the hearing was held on February 27, 2014. Therefore, COURT ORDERED, Deft.'s Motion is DENIED as MOOT. State to prepare the Order; COURT FURTHER ORDERED, matter set for Status Check. If the Order is submitted prior to the status check date, it will be VACATED. NDC 04/03/14 8:15 AM STATUS CHECK: ORDER (03/18/14) CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89018.;

03/20/2014

Status Check (8:15 AM) (Judicial Officer: Villani, Michael)
Order of 2/27/14
Off Calendar; Order (02/27/14)
Journal Entry Details:
Charles Thoman, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present. This is the time set for the Status Check regarding the Order from the February 27, 2014, hearing. Court noted that the Order was filed on March 11, 2014, and, therefore, ORDERED, matter OFF CALENDAR. NDC ;

04/03/2014

Status Check (8:15 AM) (Judicial Officer: Villani, Michael)
Status Check: Order (03/18/14)
Off Calendar; Order (03/18/14)
Journal Entry Details:
Giancarlo Pesci, Chf Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present. This is the time set for the Status Check on the Order from March 18, 2014. Court noted the Order was filed on March 26, 2014, and, therefore, ORDERED, matter OFF CALENDAR. NDC ;

08/14/2014

Motion for Relief (8:15 AM) (Judicial Officer: Villani, Michael)
Defendant's Motion for Relief from Judgment Based on Lack of Jurisdiction for U.S. Court of Appeals had not Issued Any Remand, Mandate or Remittitur
Denied; Deft.'s Motion for Relief from Judgment Based on Lack of Jurisdiction for U.S. Court of Appeals had not Issued Any Remand, Mandate, or Remittitur
Journal Entry Details:
Charles Thoman, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present. This is the time set for hearing on Deft.'s Motion for Relief from Judgment based on Lack of Jurisdiction for U.S. Court of Appeals had not Issued any Remand, Mandate, or Remittitur, which he filed pro se. Court will hear no oral argument, it will base its decision on the pleadings submitted by the parties. The Deft. is alleging that his case was on appeal with the Federal Court when this Court went forward with his trial in District Court. Deft. had filed a Motion to Stay the State Court proceedings; however, said Motion was DENIED on May 9, 2012. The Deft. renewed said Motion and the Motion was again DENIED by the Federal Court on June 5, 2012. Since there was no STAY in place in the instant case, this Court proceeded with trial on June 11, 2012. Therefore, COURT ORDERED, Motion DENIED. State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is filed prior to the next court date, the status check will be VACATED. NDC 09/04/14 8:15 AM STATUS CHECK: Order (09/04/14) CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 89419. ;

09/04/2014

Status Check (8:15 AM) (Judicial Officer: Villani, Michael)
Status Check: Order (08/14/14)
Off Calendar; Order (08/14/14)
Journal Entry Details:
Christopher Hamner, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present. This is the time set for Status Check on the Order from the August 14, 2014, hearing. Court noted that the Order has been submitted for this Court's signature and ORDERED, matter OFF CALENDAR. NDC ;

09/18/2014

Motion (8:15 AM) (Judicial Officer: Togliatti, Jennifer)
09/18/2014, 10/03/2014

Ex Parte Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit

3:14- CV-00385-RCJ-WGC Against Judge Michael Villani for Proceeding in Clear " Want of Jurisdiction" Thereby Losing Immunity, Absolutely
Matter Heard; Ex Parte Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit 3:14- CV-00385-RCJ-WGC Against Judge Michael Villani for Proceeding in Clear " Want of Jurisdiction" Thereby Losing Immunity, Absolutely
Off Calendar;
Journal Entry Details:
Matter taken OFF CALENDAR before Court.;
Matter Heard; Ex Parte Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit 3:14- CV-00385-RCJ-WGC Against Judge Michael Villani for Proceeding in Clear " Want of Jurisdiction" Thereby Losing Immunity, Absolutely
Off Calendar;
Journal Entry Details:
- Christopher Hamner, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present. This is the time set for hearing on Deft.'s Ex Parte Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit 3:14- EV-00385-RCJ-WGC Against Judge Michael Villani for Proceeding in Clear "Want of Jurisdiction" Thereby Losing Immunity, Absolutely. Court noted the Deft. alleged that he has filed a new lawsuit against this Judge as well as some other people in the courthouse. Therefore, COURT ORDERED, matter REFERRED to Judge Togliatti for review. Court noted Deft. has another motion set for hearing on this Court's calendar for September 23, 2014; that motion will also be set on Judge Togliatti's calendar the same day as the instant motion. NDC 10/03/14 9:00 EX-PARTE MOTION TO CHIEF JUDGE TO REASSIGN CASE/MOTION FOR LEAVE OF COURT TO FILE MOTION FOR REHEARING CLERK S NOTE: A copy of this minute order was mailed to Brian O'Keefe, #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 894193. ;

09/23/2014 **Minute Order** (8:15 AM) (Judicial Officer: Villani, Michael)
Stayed;
Journal Entry Details:
Defendant's Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit and Defendant's Motion For Leave of Court to File Motion For Rehearing came before this Court on the September 18, 2014, Oral Calendar. This Court referred the Motions to Judge Jennifer Togliatti, Chief Judge, for determination. Now, Defendant has filed a Petition for Writ of Habeas Corpus. Pursuant to NRS 1.235(5), this Department cannot proceed on the Defendant's Petition until Judge Togliatti has ruled on Defendant's Motion to Reassign. Therefore, COURT ORDERED, Defendant's Petition for Writ of Habeas Corpus and any other motions set in Department XVII shall be STAYED until Judge Togliatti makes a determination on Defendant's Motion to Reassign the case. A status check will be set on October 16, 2014. 10/16/14 8:15 AM STATUS CHECK: STAY CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of the District Attorney and mailed to Brian O'Keefe, #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 894193. ;

10/02/2014 *CANCELED* **Motion** (3:00 AM) (Judicial Officer: Villani, Michael)
Vacated - per Law Clerk
Notice of Motion and Motion for Leave of Court to File Motion for Rehearing - Pursuant to EDCR, Rule 2.24

10/16/2014 **Status Check** (8:15 AM) (Judicial Officer: Villani, Michael)
Status Check: Stay
Matter Heard; Stay
Journal Entry Details:
Nicole Cannizzaro, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present. This is the set for the Status Check on the Stay. Court noted that the Deft. previously filed a Motion requesting that this Court be recused from his case. Chief Judge Togliatti reviewed this matter and DENIED the Deft.'s request. Therefore, this case will remain in Department XVII. COURT ORDERED, all Deft.'s pending motions shall be set for hearing on November 6, 2014. NDC 11/06/14 8:15 AM ALL PENDING MOTIONS CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe, #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 894193. ;

11/06/2014 **Petition for Writ of Habeas Corpus** (8:15 AM) (Judicial Officer: Villani, Michael)

Amended Petition for Writ of Habeas Corpus Pursuant to NRS 34.360 Exclusive Based on Subject Matter of Amended Information Vested in Ninth Circuit by Notice of Appeal then "COA" Granted on a Double Jeopardy Violation with No Remand Issued Since
Set Status Check;

11/06/2014 **Response and Countermotion** (8:15 AM) (Judicial Officer: Villani, Michael)
State's Response And Motion To Dismiss To Defendant's Pro Per Petition For Writ Of Habeas Corpus Pursuant To NRS 34.360 Exclusive Based On Subject-Matter Of Amended Information Vested In Ninth Circuit By Notice Of Appeal Then "COA" Granted On A Double Jeopardy Violation With No Remand Issued Since (Post Conviction), Amended Petition And Accompanying Exhibits, Opposition To Request For Evidentiary Hearing, And Opposition To Pro Per Motion To Appoint Counsel
Set Status Check;

11/06/2014 **All Pending Motions** (8:15 AM) (Judicial Officer: Villani, Michael)
Amended Petition for Writ of Habeas Corpus . . . State's Response and Motion to Dismiss Deft.'s Petition for Writ of Habeas Corpus
Matter Heard;
Journal Entry Details:
AMENDED PETITION FOR WRIT OF HABEAS CORPUS . . . STATE'S RESPONSE AND MOTION TO DISMISS DEFT.'S PETITION FOR WRIT OF HABEAS CORPUS Hilary Heap, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present. Court noted that Deft. has filed various motions but this is the Deft.'s first habeas petition. It is this Court's policy to appoint counsel on all first petitions. Therefore, COURT ORDERED, counsel shall be appointed for the Deft. This Court's staff will contact the Office of Appointed Counsel. COURT FURTHER ORDERED, matter set for status check. NDC 11/20/14 8:15 AM STATUS CHECK: CONFIRMATION OF COUNSEL CLERK'S NOTE: Court Clerk telephonically contacted Drew Christensen regarding the above. ;

11/20/2014 **Status Check** (8:15 AM) (Judicial Officer: Villani, Michael)
Status Check: Confirmation of Counsel
Matter Heard; Confirmation of Counsel
Journal Entry Details:
Hilary Heap, Dep DA, present on behalf of the State and Matthew Carling, Esq., present on behalf of Deft. O'Keefe, who is not present; he is incarcerated in the Nevada Department of Corrections (NDC). This is the time set for the Status Check on Confirmation of Counsel. Mr. Carling advised that he could CONFIRM as counsel of record and requested thirty (30) days to obtain the file and review it. COURT ORDERED, matter set for status check. NDC 01/08/15 8:15 AM STATUS CHECK: FILE/SET BRIEFING SCHEDULE ;

01/08/2015 **Status Check** (8:15 AM) (Judicial Officer: Villani, Michael)
Status Check: File/Set Briefing Schedule
Hearing Set; File/Set Briefing Schedule
Journal Entry Details:
Caroline Bateman, Dep DA, present on behalf of the State and Alissa Engler, Esq., appearing on behalf of Matthew Carling, Esq., for Deft. O'Keefe, who is not present. Deft. is incarcerated in the Nevada Department of Corrections (NDC). This is the time set for the Status Check on the file; a briefing schedule needs to be set. Ms. Engler advised that Mr. Carling has received the file and is requesting ninety (90) days to file his supplemental petition. The Court set the following briefing schedule: 04/07/15 - Supplemental Petition 06/08/15 - State's Response COURT ORDERED, matter set for hearing. NDC 07/10/15 9:30 AM HEARING: PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) ;

06/30/2015 **Motion to Withdraw as Counsel** (8:30 AM) (Judicial Officer: Villani, Michael)
Deft.'s Motion to Withdraw Counsel for Conflict and Failure to Present Claims ...
Denied; Deft.'s Motion to Withdraw Counsel for Conflict and Failure to Present Claims ...
Journal Entry Details:
Erika Wiborg, Dep DA, present on behalf of the State; neither Deft. O'Keefe nor his counsel, Matthew Carling, are present. Deft. is incarcerated in the Nevada Department of Corrections (NDC). This is the time set for hearing on Deft.'s Motion to Withdraw Counsel for Conflict, which the Deft. filed pro se. The Court did not receive an unequivocal statement from the Deft.

as to whether or not he wishes to represent himself in this matter. The Court, however, is not going to appoint another attorney just because the Deft. does not like Mr. Carling. Although Mr. Carling could not be present today, he filed an Affidavit on July 29, 2015, stating his position on Deft.'s Motion. In said Affidavit, Mr. Carling advised that he been working on this case and can work with the Deft. Therefore, COURT ORDERED, Deft.'s Motion is DENIED, without prejudice. State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is submitted prior to status check date, it will be VACATED. NDC 07/30/15 8:30 AM STATUS CHECK: ORDER (06/30/15) ;

07/10/2015 **Hearing** (9:30 AM) (Judicial Officer: Villani, Michael)
07/10/2015, 09/04/2015
Hearing: Petition for Writ of Habeas Corpus (Post-Conviction)
Continued; Hearing: Petition for Writ of Habeas Corpus (Post-Conviction)
Denied; Deft.'s Petition for Writ of Habeas Corpus (Post-Conviction)
Journal Entry Details:
Christopher Lalli, Asst DA, present on behalf of the State and Matthew Carling, Esq., present on behalf of Deft. O'Keefe, who is not present. Deft. is incarcerated in the Nevada Department of Corrections (NDC). This is the time set for hearing on Deft.'s Petition for Writ of Habeas Corpus (Post-Conviction). Court noted there is a disagreement as to when the Remittitur issued; the Defense claims it was issued on June 24, 2014, and the State claims it was issued on July 23, 2013. The Court pulled the Remittitur and it is dated July 23, 2013, and was issued on July 26, 2013; Supreme Court No. 61631. Mr. Carling advised that the Deft. moved to STAY the Remittitur in this case. With regard to the appeal, Deft. had Appellate counsel and he was trying to fire him but could not so he tried to do things on his own while he still had counsel of record but his requests were denied by the Supreme Court. Therefore, if the Court finds that Deft.'s Petition was not timely filed, Mr. Carling believes there is good cause. Additionally, Mr. Carling represented that the State's Response was just on the time-bar issue, it did not address any of the merits so Mr. Carling filed a Reply specifically addressing that. This matter has been well briefed, so Mr. Carling will submit the matter. The Court adopts the procedural history set forth by the State. The Notice of Remittitur was issued in July 2013 and Deft.'s Petition was filed in September 2014; therefore, COURT FINDS, the Deft. is time bared, pursuant to NRS 34.726, and good cause has not been shown. COURT ORDERED, Deft.'s Petition for Writ of Habeas Corpus is DENIED. Additionally, Deft.'s request for an Evidentiary Hearing is also DENIED because there is a jurisdictional bar on this particular matter. Mr. Lalli to prepare the appropriate Order approved as to form and content by Mr. Carling. NDC ;
Continued; Hearing: Petition for Writ of Habeas Corpus (Post-Conviction)
Denied; Deft.'s Petition for Writ of Habeas Corpus (Post-Conviction)

07/10/2015 **Motion for Leave** (9:30 AM) (Judicial Officer: Hardcastle, Kathy)
Motion for Leave to File Supplemental Petition Addressing All Claims in the First Instance Required by Statute for Judicial Economy with Affidavit
Motion Denied; Motion for Leave to File Supplemental Petition Addressing All Claims in the First Instance Required by Statute for Judicial Economy with Affidavit

07/10/2015 **All Pending Motions** (9:30 AM) (Judicial Officer: Hardcastle, Kathy)
Matter Heard;
Journal Entry Details:
DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) ..... DEFENDANT'S PRO PER MOTION FOR LEAVE TO FILE SUPPLEMENTAL PETITION ADDRESSING ALL CLAIMS IN THE FIRST INSTANCE REQURIED BY STATUTE FOR JUDICIAL ECONOMY WITH AFFIDAVIT Deft. not present. COURT ORDERED, motion for leave to file supplemental petition DENIED as a fugitive document; NOTED Deft. was represented by counsel. Mr. Carling noted in his pleading he didn't address the State's response regarding the time bar; additionally, as to Mr. Maningo, who was prior trial counsel, the State may need time to respond thereto. Mr. Carling provided a timeline for the Court's review. Colloquy regarding the date the remittitur was referenced as being filed and the date the petition was filed. Mr. Villani requested 30 days to respond. Mr. Carling requested 2 weeks to reply. COURT ORDERED, matter CONTINUED; State's supplement due 8/10/15 and Defense reply due 8/24/15. NDC CONTINUED TO: 9/4/15 9:30 AM ;

07/16/2015 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)

07/16/2015, 07/30/2015
Defendant's Ex Parte Motion to Extend Prison Copywork Limit
Matter Continued; Deft.'s Ex-Parte Motion to Extend Prison Copywork Limit
Denied Without Prejudice; Deft.'s Motion to Extend Prison Copywork Limit
Journal Entry Details:
Nicole Cannizzaro, Dep DA, present on behalf of the State and Alissa Engler, Esq., appearing on behalf of Matthew Carling, Esq., for Deft. O'Keefe, who is not present; he is incarcerated in the Nevada Department of Corrections (NDC). This is the time set for hearing on Deft.'s Motion to Extend Prison Copywork Limit. Court noted that the Deft. is represented by Mr. Carling; Ms. Engler advised that Mr. Carling has no representations to make; he did not receive a copy of Deft.'s ex-parte motion. Court represented that since the Deft. is dealing with the prison system, there are rules and regulations he must follow. This is an issue for the Attorney General's office; therefore, his motion should have been sent to them. Additionally, Deft. has counsel. Therefore, COURT ORDERED, Motion DENIED, without prejudice. If Mr. Carling believes the Motion has merit, he can refile it with the Court. State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is filed prior to the status check date, it will be VACATED. NDC 08/27/15 8:30 AM STATUS CHECK: ORDER (07/30/15) ;
Matter Continued; Deft.'s Ex-Parte Motion to Extend Prison Copywork Limit
Denied Without Prejudice; Deft.'s Motion to Extend Prison Copywork Limit
Journal Entry Details:
Nicole Cannizzaro, Dep DA, present on behalf of the State; neither Deft. O'Keefe or his counsel, Matthew Carling, are present. This is the time set for hearing on Deft.'s Ex-Parte Motion to Extend Prison Copywork Limit, which he filed pro se. Court noted that Mr. Carling is not able to be present today and has requested this matter be continued. COURT SO ORDERED. NDC CONTINUED TO: 07/30/15 8:30 AM ;

07/30/2015 *CANCELED* **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Vacated
Status Check: Order (06/30/15)

08/27/2015 *CANCELED* **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Vacated
Status Check: Order (07/30/15)

10/20/2015 **Motion to Withdraw as Counsel** (8:30 AM) (Judicial Officer: Bixler, James)
Matthew D. Carling's Motion to Withdraw as Attorney of Record for Deft.
Denied; Matthew D. Carling's Motion to Withdraw as Attorney of Record for Deft.
Journal Entry Details:
Michelle Sudano, Dep DA, present on behalf of the State and Matthew Carling, Esq., present on behalf of Deft. O'Keefe, who is not present. Deft. is incarcerated in the Nevada Department of Corrections (NDC). This is the time set for the hearing on Matthew D. Carling's Motion to Withdraw as Attorney of Record for Deft. Upon Court's inquiry as to whether the Deft. was opposed to Mr. Carling's withdrawal, Mr. Carling advised that he contacted the Deft. but he has not responded; his only concern is that the Notice of Appeal has not been filed and it tolls this week. Mr. Carling has everything ready but he needs to hear from the Deft.; colloquy. COURT ORDERED, Motion DENIED; the Court directed Mr. Carling to file the appeal and then he can withdraw at the Supreme Court level. NDC ;

06/22/2017 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion to Transfer to Chief Judge Based on Trial Court Served as Defendant
Denied;
Journal Entry Details:

Defendant not present. Court noted Defendant was in the Nevada Department of Corrections. COURT ADOPTED the Procedural History as set forth by the State. Court stated the petition was time barred pursuant to NRS 34.726 and successive under NRS 34.810. Court further stated Defendant had not shown good cause to get over the time barred nor the successive petition issue. Court stated Defendant's request to have the petition transferred was meritless and did not cite any authority. Court noted Defendant alleged the Court has some favoritism or antagonism toward him, that's without any bases therefore, COURT ORDERED, Motion DENIED; State to prepare the Order. COURT FURTHER ORDERED, Status Check SET for filing of the Order. NDC 07/20/17 8:30 AM STATUS CHECK: FILING OF ORDER CLERK'S

NOTE: The above minute order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/06/23/17;

06/27/2017 **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Villani, Michael)
Events: 05/15/2017 Order for Petition for Writ of Habeas Corpus
Deft's Pro per Petition for Writ of Habeas Corpus

MINUTES

Order for Petition for Writ of Habeas Corpus
Denied;
Journal Entry Details:
Defendant not present. Court noted it was basing its decision on the pleadings on file and not taking oral argument. COURT ADOPTED the Procedural History as set forth by the State. Court stated the petition was time barred pursuant to NRS 34.726 and successive under NRS 34.810. Court further stated Defendant had not shown good cause to get over the time barred nor the successive nature of this petition. Court stated Defendant's petition was meritless as if failed to cite any authority regarding the switching on judicial officers. Court noted Defendant alleged the Court has some favoritism or antagonism toward him. Court stated all rulings have been based upon the law and facts of the case, not based on any bias by the Court. COURT ORDERED, petition DENIED; Status Check SET for filing of the Order. NDC 07/20/17 8:30 AM STATUS CHECK: FILING OF ORDER CLERK'S NOTE: The above minute order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/07/05/17 ;

07/06/2017 **Motion for Clarification** (8:30 AM) (Judicial Officer: Villani, Michael)
Deft's Pro Per Motion of Clarification that Complaint PI 16-1070 was Filed on 12/14/16 Under Protected Liberty Interest State Created by Statute NRS 34.360 Thereby Protected by Procedural Due Process Under the U.S. 14th Constitutional Amendment and Nevada Constitution Article I & 8 in Which Plaintiff, as Master of His Suit, Prosecuted Writ to Only be Reviewed Under By-Law
Denied;
Journal Entry Details:
Defendant not present. Court noted it was basing its decision on the pleadings filed. COURT ADOPTED the Procedural History as set forth by the State and ORDERED, motion DENIED. Court stated the motion failed to state any legal bases and it was a non-cognizable claim. COURT FURTHER ORDERED, Status Check SET for filing of the Order. NDC 07/27/17 8:30 AM STATUS CHECK: FILING OF ORDER CLERK'S NOTE: The above minute order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/07/06/17;

07/20/2017 **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Status Check: Filing of Order
Off Calendar;

07/20/2017 **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Status Check: Filing of Order
Off Calendar;

07/20/2017 **All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)
Matter Heard; Status Check: Filing of Order
Journal Entry Details:
STATUS CHECK: FILING OF ORDER The Court noted the Order has been received by the Court. COURT ORDERED, OFF CALENDAR NDC ;

07/27/2017 *CANCELED* **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Vacated - per Law Clerk
Status Check: Filing of Order

09/07/2017 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion to Correct Illegal Sentence
Off Calendar;

Journal Entry Details:
Defendant not present. Court noted Defendant appealed the Court's previous ruling as it is on appeal with the Nevada Supreme Court this Court lacked jurisdiction until there was a remitter from the Nevada Supreme Court. COURT ORDERED, matter OFF CALENDAR until the Court received a remitter from the Nevada Supreme Court. COURT FURTHER ORDERED, Defendant's Pro Per Motion to Set Hearing of Plaintiff's Motion to Correct Illegal Sentence as to Affords Proper Procedure Due Process with Time for Plaintiffs Reply to States Response ADVANCED and OFF CALENDAR. NDC CLERK'S NOTE: The above minute order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/09/11/17;

09/07/2017 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion to Set Hearing of Plaintiff's Motion to Correct Illegal Sentence as to Affords Proper Procedure Due Process with Time for Plaintiffs Reply to States Response
Off Calendar;

09/28/2017 **Motion to Strike** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion to Strike and Object to Direct Case Number Assigned and Request Independent Habeas Corpus No. Under NRS 34.360 Pursuant Liberty Interest and Due Process of Law Under XIV Amendment
Denied Without Prejudice;

09/28/2017 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion to Waive Any Ostensible Oral Argument By Personal Appearance Thereby Requesting any Pro Se Appearance to be Conducted Via Telephonically
Denied Without Prejudice;

09/28/2017 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion to Object NRS 34.360
Denied Without Prejudice;

09/28/2017 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion to Object to Court Clerk Filing Petition for Habeas Corpus Under NRS 34.360 as a Direct Action Thereby Unlawfully Rechoracterizing New Independent Civil Suit as a Proceeding in The Original Action Denying The "Liberty Clause"
Denied Without Prejudice;

09/28/2017 **Motion to Correct Sentence** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion to Correct Illegal Sentence With New Hearing DAte
Denied Without Prejudice;

09/28/2017 **Motion to Strike** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion to Strike State's Untimely Opposition to Defendant's Motion to Correct Illegal Sentence
Denied Without Prejudice;

09/28/2017 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Reply to State's Opposition to Defendant's Motion to Correct Illegal Sentence Untimely Served and Filed Supported by Incoming Legal Mailing as Exhibit "A"
Denied Without Prejudice;

09/28/2017 **All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)
Matter Heard;
Journal Entry Details:

Defendant not present. Court stated Defendant had filed various motions and his case was pending with the Nevada Supreme Court. COURT ORDERED, Motions DENIED WITHOUT PREJUDICE. Court noted upon remitter from the Nevada Supreme Court, Defendant could re-notice his motions. DEFENDANT'S PRO PER MOTION TO STRIKE AND OBJECT TO DIRECT CASE NUMBER ASSIGNED AND REQUEST INDEPENDENT HABEAS CORPUS NO. UNDER NRS 34.360 PURSUANT LIBERTY INTEREST AND DUE PROCESS OF LAW UNDER XIV AMENDMENT: COURT ORDERED, Motion DENIED WITHOUT PREJUDICE. DEFENDANT'S PRO PER MOTION TO WAIVE ANY OSTENSIBLE ORAL ARGUMENT BY

PERSONAL APPEARANCE THEREBY REQUESTING ANY PRO SE APPEARANCE TO BE CONDUCTED VIA TELEPHONICALLY: COURT ORDERED, Motion DENIED WITHOUT PREJUDICE. DEFENDANT'S PRO PER MOTION TO OBJECT NRS 34.360: COURT ORDERED, Motion DENIED WITHOUT PREJUDICE. DEFENDANT'S PRO PER MOTION TO OBJECT TO COURT CLERK FILING PETITION FOR HABEAS CORPUS UNDER NRS 34.360 AS A DIRECT ACTION THERE BY UNLAWFULLY RECHARACTERIZING NEW INDEPENDENT CIVIL SUIT AS A PROCESSING IN THE ORIGINAL ACTION DENYING THE "LIBERTY CLAUSE": COURT ORDERED, Motion DENIED WITHOUT PREJUDICE. DEFENDANT'S PRO PER MOTION TO CORRECT ILLEGAL SENTENCE WITH NEW HEARING DATE: COURT ORDERED, Motion DENIED WITHOUT PREJUDICE. COURT FURTHER ORDERED, Defendant's Pro Per Motion to Strike State's Untimely Opposition to Defendant's Motion to Correct Illegal Sentence and Defendant's Pro Per Reply to State's Opposition to Defendant's Motion to Correct Illegal Sentence Untimely Served and Filed Supported by Incoming Legal Mailing as Exhibit "A" ADVANCED and DENIED WITHOUT PREJUDICE. CLERK'S NOTE: The above minute order has been distributed to: BRIAN O'KEEFE # 90244 1200 PRISON ROAD LOVELOCK, NV 89419 ob/09/29/17;

10/24/2017 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)

10/24/2017, 01/11/2018

Defendant's Pro Per Motion to Demand Upon Request by Law to Place Defendant's Motion Under Protected Liberty Interest- NRS 176.555 back on Calendar Based on Motion Being Incidental and Can be Filed at Anytime in Accordance with O'Keefe Procedural Due Process Protected by the Due Process Cause of the US Fourteenth Constitutional Amendment

Matter Continued;
Motion Denied;
Journal Entry Details:
Defendant not present. Court noted it was basing its decision on the pleadings on file and not taking oral argument. COURT ADOPTED the Procedural History as set forth by the State. Court stated it appeared Defendant stated the sentence was illegal. Court further stated Defendant was sentenced within statutory guidelines. COURT FINDS it was not facially illegal and ORDERED, Motion DENIED; Status Check SET. NDC 02/01/18 8:30 AM STATUS CHECK: FILING OF ORDER CLERK'S NOTE: The above minute order has been distributed to Brian O'keefe #90244 1200 Prison Rd Lovelock NV 89419 //ob/1/16/18;
Matter Continued;
Motion Denied;
Journal Entry Details:
Defendant not present. Upon Court's inquiry, Ms. Graham advised the State was not served and needed more time. COURT ORDERED, Briefing Schedule SET as follows: State's Reply due by November 21, 2017 and hearing SET. NDC 01/11/18 8:30 AM DEFENDANT'S PRO PER MOTION TO DEMAND UPON REQUEST BY LAW TO PLACE DEFENDANT'S MOTION UNDER PROTECTED LIBERTY INTEREST- NRS 176.555 BACK ON CALENDAR BASED ON MOTION BEING INCIDENTAL AND CAN BE FILED AT ANYTIME IN ACCORDANCE WITH O'KEEFE PROCEDURAL DUE PROCESS PROTECTED BY THE DUE PROCESS CAUSE OF THE US FOURTEENTH CONSTITUTIONAL AMENDMENT CLERK'S NOTE: The above minute order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/10/24/17.;

10/26/2017 **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Villani, Michael)

10/26/2017, 11/30/2017

Defendant's Pro Per Petition for Writ of Habeas Corpus

Matter Continued;
Denied;
Matter Continued;
Denied;
Journal Entry Details:
Defendant not present. Upon Court's inquiry, Mr. Smith advised the State had not filed an opposition. Colloquy regarding the State's opposition. COURT ORDERED, Briefing Schedule SET as follows: State's Reply due by November 16, 2017; matter CONTINUED. NDC CONTINUED TO: 11/30/17 8:30 AM CLERK'S NOTE: The above minute order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/10/26/17;

11/30/2017 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)

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

Motion Denied;

11/30/2017 **All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)
Matter Heard;
Journal Entry Details:
DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...DEFENDANT'S PRO PER MOTION FOR ORDER TO HAVE P&P FILE AMENDED PSI Defendant not present. Court stated it would base its decision on the pleadings filed and ORDERED, Decision DEFERRED. The Court will prepare a written decision. NDC CLERK'S NOTE: The above minute order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/11/30/17;

12/05/2017 **Minute Order** (4:00 PM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Petition for Writ of Habeas Corpus
Decision Made;
Journal Entry Details:
Defendant's Pro Per Petition for Writ of Habeas Corpus came before this Court on the November 30, 2017 Calendar. The Court deferred its decision and now rules as follows: Defendant filed his Post-Conviction Petition for Writ of Habeas Corpus on 8/15/17 alleging a double jeopardy violation. The Judgment of Conviction was entered in this case on 9/5/12. First, the Court adopts the State's procedural history. Second, the Petition is time-barred under NRS 34.726(1) with no good cause shown for the delay. Under NRS 34.726(1), the Petition must be filed within one (1) year of the filing of the Judgment of Conviction, unless good cause is shown for the delay. Here, all of the information was available to Defendant regarding his allegation of a double jeopardy violation at the time the Judgement of Conviction was filed. Finally, the Petition is successive pursuant to NRS 34.810 because Defendant failed to raise this issue in previously filed Petitions, and the alleged issue existed at the time the previous Petitions were filed. Good cause has not been established to overcome the time bar or the fact that this Petition is successive. Therefore, COURT ORDERED Defendant's Pro Per Petition for Writ of Habeas Corpus 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 9, 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 01/09/18 8:30 AM STATUS CHECK: FILING OF THE FINDINGS OF FACT AND CONCLUSION OF LAW CLERK'S NOTE: The above minute order has been distributed to the District Attorney and BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/12/5/17 ;

12/20/2017 **Minute Order** (4:00 PM) (Judicial Officer: Villani, Michael)
Defendant s Pro Per Motion for Order to Have P&P File Amended PSI
Decision Made;
Journal Entry Details:
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 ;

01/05/2018 *CANCELED* **Minute Order** (4:00 PM) (Judicial Officer: Villani, Michael)
Vacated - On in Error
Defendant's Pro Per Motion for Order to Have P&P File Amended PSI

01/09/2018 *CANCELED* **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Vacated
STATUS CHECK: FILING OF THE FINDINGS OF FACT AND CONCLUSION OF LAW

01/30/2018 *CANCELED* **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Vacated - per Law Clerk
Status Check: Filing of the Findings of Fact and Conclusions of Law

02/01/2018 *CANCELED* **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Vacated - Duplicate Entry
Status Check: Filing of Order

02/01/2018 *CANCELED* **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Vacated - per Law Clerk
Status Check: Filing of Order

03/08/2018 **Motion to Reconsider** (8:30 AM) (Judicial Officer: Villani, Michael)
Motion for Reconsideration to Amend the Order Which Denied Defendant's Motion the State Admits Does Not Attack Facial Legality of Sentence
Motion Denied;
Journal Entry Details:
Defendant not present. Court noted Defendant was in the Nevada Department of Corrections. Court stated it was basing its decision on the pleadings filed and not accepting oral argument. COURT ADOPTED the Procedural History as set forth by the State's motion. Court further stated Defendant's motion did not comply with EDCR 2.34 and ORDERED, Motion DENIED. Court stated Defendant had appeals pending therefore the Court did not have jurisdiction to the extent that the appeal issue was unrelated to this matter. Court further stated if the Court did have jurisdiction, Defendant had not set forth any evidence that he that he filed a federal appeal, COURT FURTHER ORDERED, Motion DENIED; State to prepare the Order. COURT ORDERED, Status Check SET for filing of the Order. Court stated the status check date would be vacated if the Order was signed and filed. NDC 03/29/18 8:30 AM STATUS CHECK: FILING OF ORDER CLERK'S NOTE: The above minute order has been distributed to: Brian O'keefe #90244 1200 Prison Rd Lovelock NV 89419 //ob/03/08/18;

03/29/2018 *CANCELED* **Status Check** (8:30 AM) (Judicial Officer: Becker, Nancy)
Vacated - per Law Clerk
Status Check: Filing of Order

04/05/2018 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Notice of Motion Motion Court to Order Clerk of Court to File Motion Pursuant Rule 59(e) and Send Back Additional Copy that was Noticed and Provided and Schedule Hearing Providing Mimimum Procedural Due Process Notice and Hearing
Matter Heard;
Journal Entry Details:
Defendant not present. Court noted Defendant was in the Nevada Department of Corrections. Court further noted this was Defendant's motion to order the Clerk of the Court to file a motion he filed January 26th; however, the Court stated Defendant did not attach a copy of motion and there had been no Order from this Court precluding the Clerk's office from filing something. COURT ORDERED, Motion DENIED WITHOUT PREJUDICE. Defendant needed to resubmit and it would be re-filed. CLERK'S NOTE: The above minute order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/04/05/18;

10/25/2018 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Pro Per Motion to Correct Facially Illegal Sentence

Denied; Defendant's Pro Per Motion to Correct Facially Illegal Sentence
Journal Entry Details:
Defendant not present. Court noted the decision is being made based upon the pleadings and is not accepting oral argument. Court stated this is the Defendant's 3rd Motion to correct illegal sentence and attacks the legality of the sentence which is not a proper form to do such; therefore, ORDERED, Motion DENIED; State to prepare the Order; matter SET for Status Check regarding Order. NDC 11/15/18 8:30 AM STATUS CHECK: ORDER;

11/15/2018 *CANCELED* **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Vacated
Status Check: Order

01/22/2019 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
01/22/2019, 02/12/2019, 03/12/2019
Events: 12/31/2018 Notice of Motion
Defendant's Notice of Motion
Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued;
Journal Entry Details:
Defendant not present. Court stated as to Defendant's motion it was difficult to figure out what Defendant was requesting. Court further stated there was a upcoming Petition for Writ of Habeas Corpus and ORDERED, matter CONTINUED to hear the matters at the same time. NDC CLERK'S NOTE: A copy of the Minute Order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419//ob/01/22/19;

02/12/2019 **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Villani, Michael)
02/12/2019, 03/12/2019
Events: 12/12/2018 Order for Petition for Writ of Habeas Corpus
Matter Continued;

02/12/2019 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
02/12/2019, 03/12/2019
Events: 01/28/2019 Notice of Motion
State's Notice of Motion and Motion to Declarre Vexatious Litigant and to Refer Defendant to Department of Corrections for Forfeiture of Statutory Credits
Matter Continued;

02/12/2019 **All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)
Matter Heard;
Journal Entry Details:
Deputy District Attorney Ashley Lacher, present on behalf of the State. PETITION FOR WRIT OF HABEAS CORPUS...DEFENDANT'S NOTICE OF MOTION...STATE'S NOTICE OF MOTION AND MOTION TO DECLARE VEXATIOUS LITIGANT AND TO REFER DEFENDANT TO DEPARTMENT OF CORRECTIONS FOR FORFEITURE OF STATUTORY CREDITS Defendant not present. Court noted the Motion was filed on or about January 28th, the Court was uncertain as to how long it took to deliver it to Defendant who was in the Nevada Department of Corrections (NDC). Court further noted Defendant's request for more time didn't set forth the reasons that he needed more time to file an opposition; however, the Court stated it wanted to make certain Defendant had enough time to file an opposition. Court further stated Defendant needed to file an opposition within two weeks from today. COURT ORDERED, Briefing Schedule SET as follows: Defendant's opposition due by February 26, 2019; States Reply due by March 5, 2019 and hearing SET; Petition for Writ of Habeas and Defendant's Notice of Motion CONTINUED. NDC 03/12/19 8:30 AM PETITION FOR WRIT OF HABEAS CORPUS...DEFENDANT'S NOTICE OF MOTION...STATE'S NOTICE OF MOTION AND MOTION TO DECLARE VEXATIOUS LITIGANT AND TO REFER DEFENDANT TO DEPARTMENT OF CORRECTIONS FOR FORFEITURE OF STATUTORY CREDITS CLERK'S NOTE: A copy of this Minute Order has been distributed to: Brian O'Keefe # 90244 1200 Prison Rd Lovelock, NV 89419//ob/02/12/19;

03/05/2019 *CANCELED* **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)

Vacated - per Law Clerk
Defendant's Urgent Motion for Enlargement of Time (NRCP 6) to File Opposition and Continue Hearing Scheduled for 02/12/2019 of State's Motion to Declare Vexatious Litigant ... Credits, Providing Equitable Procedural Due Process ota Pro per Inmate Without Direct Access to Law Library Who Requires Copies and Research for Pro Per Objection

03/12/2019 **All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)
Matter Heard;
Journal Entry Details:
PETITION FOR WRIT OF HABEAS CORPUS...DEFENDANT'S NOTICE OF MOTION...STATE'S NOTICE OF MOTION AND MOTION TO DECLARRE VEXATIOUS LITIGANT AND TO REFER DEFENDANT TO DEPARTMENT OF CORRECTIONS FOR FORFEITURE OF STATUTORY CREDITS Defendant not present. Court noted this was the State's motion to declare Defendant a vexatious litigant. Court further noted it was basing its decision on the pleadings that had been filed and not taking oral argument. COURT ADOPTED the Procedural History as set forth by the State. Court stated the State previously file this motion and the Court continued to give Defendant an opportunity to file a opposition. COURT FINDS, Defendant had filed numerous successive petitions that had not had any merit and also filed some motions that were nonsequential. COURT FINDS, Defendant's previous motions had been frivolous and both of a harassing nature toward the State, those motions have been without arguable or legal or factual bases. Court stated Defendant allowed to present to the Court any future pleadings for the Court to determine whether or not there was any legal bases for those motions thereafter the Court would allow them to be filed and heard in due course. COURT ORDERED, Motion GRANTED; Status Check SET for State to prepare the formal findings, facts and conclusion of law. COURT FURTHER ORDERED, Defendant to referred to the Department of Corrections for Forfeiture of Statutory Credits GRANTED. NDC 04/04/19 8:30 AM STATUS CHECK: FINDINGS, FACTS AND CONCLUSION OF LAW CLERK'S NOTE: The above minute order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/03/13/19.;

03/19/2019 **Opposition** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Opposition to States Retaliatory Motion to Declare Vexatious Litigant... Where Federal Counsel Appointed by Order of 9th Cir Declared in Full Briefing O'Keefe to be Prolific
Matter Heard;
Journal Entry Details:
Defendant not present. Court noted it previously declare Defendant a vexatious litigant. COURT ORDERED, Motion DENIED as being Moot. Court noted the State was to prepare a Findings, Facts and Conclusion of Law by April 4, 2019. NDC CLERK'S NOTE: A copy of this Minute Order has been distributed to: BRIAN O'KEEFE #90244 1200 PRISON ROAD LOVELOCK, NV 89419 //ob/03/20/19;

04/04/2019 *CANCELED* **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Vacated - per Law Clerk
Status Check: Findings, Facts and Conclusion of Law

DATE	FINANCIAL INFORMATION	
	Defendant O'Keefe, Brian Kerry	
	Total Charges	195.00
	Total Payments and Credits	195.00
	Balance Due as of 5/1/2019	**0.00**

Electronically Filed
4/4/2019 10:09 AM
Steven D. Grierson
CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN NIMAN
Deputy District Attorney
Nevada Bar #14408
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- BRIAN O'KEEFE, #1447732 Defendant.	CASE NO: 08C250630 DEPT NO: XVII

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

DATE OF HEARING: MARCH 12, 2019
TIME OF HEARING: 8:30 AM

THIS CAUSE having come on for hearing before the Honorable MICHAEL VILLANI, District Judge, on the 12th day of March, 2019, the Petitioner not being present, proceeding in proper person, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through ASHLEY A. LACHER, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

STATEMENT OF THE CASE: 05C207835

In an earlier case, Brian Kerry O'Keefe ("Defendant") was charged by way of Information, on January 7, 2005, with one count of Battery Constituting Domestic Violence

RECEIVED BY DEPT 17 ON MAR 26 2019

(Felony – NRS 200.481, 200.485, 33.018).[1] Defendant proceeded to trial on September 19, 2005. On September 22, 2005, the jury returned a verdict of guilty on the one count charged in the Information.

On December 1, 2005, Defendant filed a Pro Per Motion for a New Trial. On December 22, 2005, the State filed its Opposition to the Motion for a New Trial. The court denied the Motion on January 10, 2006.

On March 2, 2006, Defendant was adjudicated guilty as charged in the Information and sentenced as follows: to a maximum of sixty (60) months and a minimum of twenty-four (24) months in the Nevada Department of Corrections (NDC), with three hundred eleven (311) days Credit For Time Served. Defendant's Judgment of Conviction was filed March 9, 2006.

Defendant filed a Notice of Appeal on March 14, 2006. The Nevada Supreme Court affirmed the Judgment of Conviction on August 14, 2006. See O'Keefe v. State, Docket No. 46938, Order of Affirmance (August 14, 2006). Remittitur issued September 8, 2006.

Defendant filed a Petition for Writ of Habeas Corpus (Post-Conviction) on November 15, 2006. The State filed its Opposition January 16, 2007. Defendant filed a Notice of Appeal on January 22, 2007. The court denied the Petition for Writ of Habeas Corpus (Post-Conviction) on January 25, 2007. Defendant filed additional Notices of Appeal on January 31, 2007 and February 27, 2007. The Findings of Fact, Conclusions of Law, and Order was filed on February 16, 2007, with Notice of Entry on February 20, 2007. Defendant's first appeal was dismissed on February 28, 2007. Remittitur issued on March 27, 2007. See O'Keefe v. State, Docket No. 48810, Order Dismissing Appeal (February 28, 2007). The Nevada Supreme Court affirmed the district court's denial of Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) on October 31, 2007. Remittitur issued on November 28, 2007. See O'Keefe v. State, Docket No. 48867, Order of Affirmance (October 31, 2007).

On December 19, 2013, Defendant filed a Petition for a Writ of Mandamus or in the Alternative Writ of Coram Nobis and Response to Motion to Appoint Counsel. On December 27, 2013 and December 30, 2013, respectively, Defendant filed a Notice of Motion and

[1] An Information containing the same charge was also filed July 15, 2005.

"Supplemental of Crucial Undisclosed Exculpatory Evidence of Ex-Rawson Neal Patient's Mental/Physical Health, Multiple Suicide Attempts, Anger Management Therapy, Self-Mutilations Erratic Behavior." The State filed its Opposition on September 8, 2014. This Court denied the pleadings on September 11, 2014. Defendant filed a Notice of Appeal on September 19, 2014. The Nevada Supreme Court affirmed this Court's denial; remittitur issued on February 20, 2015.

Defendant filed a Petition for Writ of Coram Nobis on December 17, 2018, regarding the criminal case in 05C207835 but under a separate A-case number: A-18-786320-W. The State filed its Opposition to that Petition on January 28, 2019. Defendant filed a Reply on February 19, 2019. The same day, Defendant also filed a "Motion to Strike State's Opposition to Plaintiff's Civil Petition for Writ of Coram Nobis Pursuant N.R.Civ.P 12 (f)(Untimely) Noting State Recognizes Action as Civil with IFP Granted and Notice of Petition for Writ." District Court Judge Tierra Jones heard the Petition and the Motion to Strike on February 28, 2019 and denied both.

STATEMENT OF THE CASE: 08C250630

In the instant case, Defendant was charged by way of Information on December 19, 2008 with one count of Murder with Use of a Deadly Weapon (Open Murder) (Felony – NRS 200.010, 200.030, 193.165).

Defendant proceeded to trial on March 16, 2009. On March 20, 2009, the jury returned a verdict of guilty on the charge of Second Degree Murder with Use of a Deadly Weapon. The Judgment of Conviction was filed on May 8, 2009. Defendant filed a direct appeal, and on April 7, 2010, the Nevada Supreme Court reversed and remanded his case for a new trial due to a jury instruction issue. Remittitur issued May 3, 2010.

Defendant proceeded to trial for a second time on August 23, 2010. On September 2, 2010, the district court declared a mistrial on account of a deadlocked jury.

On October 3, 2011, Defendant filed a Motion to Dismiss Appointed Counsel and for a Hearing Pursuant to Faretta v. Cal., 422 U.S. 806, 807 (1975). The district court conducted

a Faretta canvass on December 16, 2011, and dismissed Defendant's counsel, thus allowing Defendant to represent himself.

On March 6, 2012, Defendant filed a "Notice of Motion and Motion to Dismiss Based Upon Violation(s) of the Fifth Amendment Component of the Double Jeopardy Clause, Constitutional Collateral Estoppel and, Alternatively, Claiming Res Judicata, Enforceable by the Fourteenth Amendment Upon the States Precluding State's Theory of Prosecution by Unlawful Intentional Stabbing with Knife, the Alleged Battery Act Described in the Amended Information." On May 9, 2012, a federal court denied Defendant's Motion to Stay the State Court Proceedings. The federal court denied Defendant's renewed Motion on June 5, 2012.

Defendant proceeded to trial for a third time on June 11, 2012. On June 15, 2012, the jury returned a guilty verdict to Second Degree Murder with Use of a Deadly Weapon (Category A Felony – NRS 200.010, 200.030, 193.165).

On August 28, 2012, this Court sentenced Defendant as follows: a minimum of one hundred twenty (120) to a maximum of three hundred (300) months, plus a consecutive term of eight (8) to twenty (20) years for use of a deadly weapon, with 1,394 days credit for time served. This final Judgment of Conviction was filed on September 5, 2012.

A Notice of Appeal was filed on September 13, 2012. The Supreme Court affirmed Defendant's conviction on April 10, 2013. Remittitur issued July 23, 2013.

On December 6, 2013, Defendant filed a Petition for Writ of Mandamus or, in the Alternative, Writ of Coram Nobis and a Motion to Appoint Counsel. The State filed its Response on December 31, 2013. This Court denied the Petition and Motion without prejudice, as the allegations therein related to yet another of Defendant's cases, Case Number 04C202793. The written Order was filed on January 28, 2014.

On January 27, 2014, Defendant filed a Motion to Modify and/or Correct Illegal Sentence. The State filed the Opposition on February 24, 2014. This Court denied Defendant's Motion to Modify and/or Correct Illegal Sentence on February 27, 2014. On March 4, 2014, Defendant filed an untimely Reply.

On July 23, 2014, Defendant filed a "Motion for Relief from Judgment Based on Lack of Jurisdiction for U.S. Court of Appeals has Not Issued any Remand, Mandate or Remittitur." The State filed a Response on August 7, 2014. The Motion was denied on August 14, 2014. Defendant filed a Notice of Appeal on that denial on August 29, 2014. The Nevada Supreme Court Defendant's dismissed the appeal on September 24, 2014.

On August 28, 2014, Defendant filed a Pro Per Motion to "Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit Against Judge Michael Villani for Proceeding in Clear 'Want of Jurisdiction' Thereby Losing Immunity, Absolutely!" On August 29, 2014, Defendant filed a notice of Motion and "Motion for Leave of Court to File Motion for Rehearing – Pursuant to EDCR, Rule 2.24." The State filed Oppositions to both motions on September 12, 2014. Defendant's Pro Per Motion was referred to District Court Judge Togliatti and denied by Order on October 6, 2014.

Defendant filed a Post-Conviction Petition for Writ of Habeas Corpus on September 15, 2014, as well as Motion to Appoint Counsel. On October 3, 2014, Defendant filed an Amended Petition and Accompanying Exhibits. The State's Response and Motion to Dismiss to the Post-Conviction Petition for Writ of Habeas Corpus, Amended Petition and Accompanying Exhibits, the State's Opposition to Request for Evidentiary Hearing, and the State's Opposition to Defendant's Motion to Appoint Counsel was filed on October 10, 2014. On October 27, 2014, Defendant filed a Reply. On November 6, 2014, this court appointed counsel and set a supplemental briefing schedule. Oddly, Defendant filed a notice of appeal from the denial of his Petition on November 21, 2014. As the Petition was not denied, the Nevada Supreme Court dismissed Defendant's appeal on February 11, 2015.

On April 8, 2015, Defendant filed a Supplemental post-conviction Petition for Writ of Habeas Corpus. The State filed its Response on June 2, 2015.

On June 8, 2015, Defendant filed a pro per Motion to Withdraw Counsel. The State filed its Opposition on June 25, 2015. On June 30, 2015, this Court denied the Motion.

On June 15, 2015, Defendant filed a pro per Supplemental Petition for Writ of Habeas Corpus (Post-Conviction) and Evidentiary Hearing Request and "Motion to Leave to File

Supplemental Petition Addressing All Claims in the First Instance Required by Statute for Juridical Economy with Affidavit." On June 16, 2015, he filed a pro per "Reply to States' Response to Defendant's Pro Per Post Conviction Petition for Habeas Corpus," and on June 17, 2015, filed a pro per "Supplement with Notice Pursuant NRS 47.150(2); NRS 47.140(1), That the United States Supreme Court has Docketed (#14-10093) the Pretrial Habeas Corpus Matter Pursuant." The State's response was filed on July 9, 2015. Defendant's Petition was denied on September 4, 2015. A Findings of Fact, Conclusions of Law and Order was filed on October 2, 2015.

Defendant filed a Notice of Appeal on October 21, 2015, and an Amended Notice of Appeal on October 29, 2015. On December 8, 2015, the Nevada Supreme Court dismissed appeal 69121 challenging the denial of a Motion to Withdraw because such a challenge is unsupported by law. Remittitur issued January 4, 2016.

On June 22, 2016, the Nevada Supreme Court affirmed the district court's order denying Defendant's September 15, 2014, Petition for Writ of Habeas Corpus as untimely. On September 22, 2016, the Nevada Supreme Court denied rehearing. Remittitur issued December 16, 2016.

On April 28, 2017, Defendant filed an application to proceed in forma pauperis. On May 2, 2017, Defendant filed a Petition for Writ of Habeas Corpus. On May 17, 2017, Defendant filed a "Notice of Supplemental Authority by the Court of Appeals of Nevada Now Relevant; Ramirez vs Nevada 2016 Nev. App. Unpub. Lens 553, Alleging Due Process Rights Involving Loss of Liberty Challenged Under NRS 34.360 by NRS 34.500 Filed Two Weeks Subsequent O'Keefe's PI16-7070." On May 31, 2017, Defendant filed a "Motion to Transfer to Chief Judge Based on Trial Court Served as Defendant." On June 9, 2017, Defendant filed a "Plaintiff's Motion of Clarification that Complaint PI 16-1070 was Filed on 12/14/16 Under Protected Liberty Interest State Created by Statute NRS 34.360 Thereby Protected by Procedural Due Process Under the U.S. 14th Constitutional Amendment and Nevada Constitution Article I & 8 in Which Plaintiff as Master of His Suit Prosecuted Writ to Only be Reviewed Under by Law." The State responded on June 20, 2017.

On June 22, 2017, this Court denied Defendant's Motion to Transfer. On June 27, 2017, this Court denied Defendant's Petition. On July 6, 2017, this Court denied Defendant's Pro Per Motion of Clarification. An Order denying this last Motion was filed on July 26, 2017. On July 20, 2017, Defendant filed a Notice of Appeal regarding this Court's denial of the Petition. The Nevada Court of Appeals affirmed. Remittitur issued May 7, 2018.

In the latter half of 2017, Defendant filed several other frivolous motions. On July 11, 2017, Defendant filed an "Objection to the State Judiciarys Unlawful Conversion of Petitioners NRS 34.360 Habeas Corpus, also the Petitioner Reply and Objection to the State's Response to Defendants Petition for Writ of Habeas Corpus and Motion to Transfer to Chief Judge, Also Objection to the States' False Return of the Writ Serving to Overthrow the Function of NRS 34.360 Without Legislative Approval." On August 15, 2017, Defendant filed a "Petition for Writ of Habeas Corpus Under NRS 34.360 See NRS 34.500 Based on Violations of Federal and State Due Process (Procedural) by Depriving Protected Liberty Interest of O'Keefe's Briefing Schedule Set by Order to Hold Pretrial Hearing of O'Keefe's "Abney" Appeal When the State, Despite Being Noticed of Writ Order (2252), Disavowed Sub - Silentio the Declaratory Judgment Issued (2253) that Provided a Binding Adjudication Thereby Establishing O'Keefe's Constitutional Rights as an Equitable Remedy Expressing the Circuit Court's Exercise of (2241) Jurisdiction of O'Keefe's (2241) Pretrial Petition Determined by the Merits (COA) Panel to Manifest a Colorable Double Jeopardy Clause Affirmative Constitutional Pretrial Defense Before the Third Trial and Wrongful Conviction Which Under the Law Said Order (2253) Acted as a Direct Injunction and can Never be Waved or Forfeited and Attached as Exhibit A Incorporated Here by Reference to Include all SCOTUS Authorities, Federal Statues and Federal Law."

On August 16, 2017, Defendant filed a Motion to Correct Illegal Sentence. On August 22, 2017, Defendant filed a "Notice of Motion and Motion to Set Hearing of Plaintiff's Motion To Correct Illegal Sentence as to Afford Proper procedural Due Process With Time For Plaintiff's Reply To State's Response." ("Notice") The State responded on August 30, 2017.

On September 7, 2017, this Court determined that it lacked jurisdiction to hear the Motion because at that point, Defendant's appeal to the Nevada Supreme Court remained outstanding.

In the first half of September 2017, Defendant filed a slew of additional notices and frivolous motions. On September 6, 2017, Defendant filed a "Motion to Strike and Object to Direct Case Number Assigned and Request Independent Habeas Corpus No. Under NRS 34.360 Pursuant Liberty Interest and Due Process of Law Under XIV Amendment," a "Motion to Waive Any Ostensible Oral Argument, By Personal Appearance, Thereby Requesting any Pro Se Appearance to be Conducted Via Telephonically," and a "Motion to Object...NRS 34.360." On September 7, 2017, Defendant field a "Motion to Object to Court Clerk Filing Petition for Habeas Corpus Under NRS 34.360 as a Direct Action Thereby Unlawfully Recharacterizing New Independent Civil Suit as a Proceeding in The Original Action Denying The 'Liberty Clause'" and a "Supplemental Sentencing Exhibit as 'C' Incorporated Herein By Reference to Defendant's Motion to Correct Illegal Sentence Tentatively Scheduled 9/07/2017 08:30am." On September 12, 2017, Defendant filed a "Motion to Strike State's Untimely Opposition to Defendant's Motion to Correct Illegal Sentence." On September 14, Defendant filed a "Notice and Reply to State's Opposition to Defendant's Motion to Correct Illegal Sentence Untimely Served and Filed Supported by Incoming Legal Mail Log as Exhibit 'A'."

The State filed its Response to all of these pleadings on September 25, 2017. This Court held a hearing on November 30, 2017, and denied Petitioner's claims. Defendant filed a Motion for Reconsideration on February 14, 2018. The State filed its Opposition on March 2, 2018. This Court denied the Motion on March 8, 2018.

Defendant filed a third Motion to Correct Illegal Sentence on October 2, 2018. The State filed its Opposition on October 18, 2018. This Court denied the Motion on October 25, 2018. Defendant filed a Notice of Appeal on November 21, 2018. That appeal seems to be pending. See O'Keefe v. State, Docket No. 77541.

Defendant had filed a Petition for Writ of Habeas Corpus—his fifth—on September 21, 2017. In full, the document was titled, "Petition for Writ of Habeas Corpus under NRS 34.360 – See NRS 34.500 – Based on Violations of Federal and State Due Process (Procedural) by

Depriving Protected Liberty Interest of O'Keefe's Briefing Schedule Set by Order to Hold Pretrial Hearing of O'Keefe's 'Abney' Appeal When the State, Despite Being Noticed of Writ Order (225.8) Disavowed Sub-Silentio the Declaratory Judgment Issued (285.3) that Provided a Binding, Adjudication Thereby Establishing O'Keefe's Constitutional Rights as an Equitable Remedy Expressing the Circuit Court's Exercise of (224.1) Jurisdiction of O'Keefe's (224.1) Pretrial Petition Determined by the Merits (COA) Panel to Manifest a Colorable Double Jeopardy Clause Affirmative Constitutional Pretrial Defense Before the Third Trial and Wrongful Conviction Which Under the Law Said Order (225.3) Acted as Direct Injunction and Can Never Be Waived or Forfeited and Attached as Exhibit 'A' Incorporated Here by Reference to Include All SCOTUS Authorities, Federal Statutes and Federal Law." This Court dismissed this Petition as being filed under the wrong case number and in the wrong department; the Nevada Court of Appeals reversed that decision and remanded the Fifth Petition because it is the responsibility of the clerk of court to correctly file the petition. See O'Keefe v. Renee Baker (Warden), Docket No. 74598, Order of Reversal and Remand. This Court issued an Order for Petition for Writ of Habeas Corpus on December 12, 2018. The State filed its Response on December 31, 2018. Defendant filed a "Motion for Relief from PPOW Filed Dec 12 2018 Pursuant to NRCP 60(b)(3)(4)" on December 31, 2018. This Court heard the December 31 Motion on January 22, 2019, but continued the hearing so that Defendant's pending Fifth Petition in this same case might be heard on the same day.

The State filed the instant Motion to Declare Vexatious Litigant and to Refer Defendant to Department of Corrections for Forfeiture of Statutory Credits on January 28, 2019. At the scheduled February 12, 2019 hearing, this Court continued the matter to give Defendant an opportunity to file an opposition. Defendant filed his Opposition, which he titled "Defendant's Opposition to States Retaliatory Motion to Declare Vexatious Litigant... Where Federal Counsel Appointed by Order of 9th Cir Declared in Full Briefing O'Keefe to be Prolific," on February 19, 2019 and a Supplement to the Opposition on February 25, 2019. The State filed its Reply on February 25, 2019. This Court heard the State's Motion on March 12, 2019.

///

ANALYSIS

Defendant has abused access to this Court, and indeed Nevada's appellate courts, in a vexatious manner by repeatedly re-litigating issues that have been rejected by this Court as without merit. Referral to the Department of Corrections for the loss of statutory credits may dissuade Defendant from further abusing the Court and the State.

The United States Supreme Court has recognized "that prisoners have a constitutional right of access to the courts." Bounds v. Smith, 430 U.S. 817, 821, 97 S.Ct. 1491 (1977). That right of access, however, may be counterbalanced by the traditional right of courts to manage their dockets and limit abusive filings. See In re McDonald, 489 U.S. 180, 184, 109 S.Ct. 993, 996 (1989) (per curiam). "[T]here is no constitutional right to file frivolous litigation." Wolfe v. George, 486 F.3d 1120, 1125 (9th Cir. 2007). Indeed, as Judge Easterbrook of the Seventh Circuit has noted:

> An argument in the teeth of the law is vexatious, and a criminal defendant who chooses to harass his prosecutor may not do so with impunity. The time of prosecutors is valuable. If a defendant multiplies the proceedings, this takes time that could more usefully be devoted to other prosecutions. When a defendant makes an argument so empty that no responsible lawyer could think the argument supportable by any plausible plea for a change in the law the court may reply with a penalty.

State of Wis. v. Glick, 782 F.2d 670, 673 (7th Cir. 1986).

The Nevada Supreme Court has held that a "district court may restrict a litigant from filing petitions and motions that challenge a judgment of conviction[.]" Jones v. Eighth Judicial District Court, 130 Nev. __, __, 330 P.3d 475, 477 (2014). However, prior to imposing such a serious limitation upon a defendant's access to the courts, "the district court must also consider whether there are other, less onerous sanctions available to curb the repetitive or abusive activities." Id. at __, 330 P.3d at 480. The Jones Court noted that one such "available sanction is to refer the litigant to the Department of Corrections for the forfeiture of credits previously earned[.]" Id. The Legislature has empowered the Department of Corrections with

the authority to impose meaningful consequences for prisoners who abuse their access to the courts:

> 1. If an offender:
>
> ...
>
> (d) In a civil action, in state or federal court, is found by the court to have presented a pleading, written motion or other document in writing to the court which:
>
> (1) Contains a claim or defense that is included for an improper purpose, including, without limitation, for the purpose of harassing the offender's opponent, causing unnecessary delay in the litigation or increasing the cost of the litigation;
>
> (2) Contains a claim, defense or other argument which is not warranted by existing law or by a reasonable argument for a change in existing law or a change in the interpretation of existing law; or
>
> (3) Contains allegations or information presented as fact for which evidentiary support is not available or is not likely to be discovered after further investigation.
>
> the offender forfeits all deductions of time earned by the offender before the commission of that offense or act, or forfeits such par of those deductions as the Director considers just.

NRS 209.451(1)(d). Collateral proceedings are within the ambit of this statute. NRS 209.451(5).

In a recently issued decision, the Nevada Supreme Court denied a petition for writ of mandamus in which the petitioner had raised a challenge to the district court's order referring him to the Department of Corrections for forfeiture of statutory credits. Alexander v. State, Docket No. 72002 (Order Denying Petition, filed January 12, 2017). In rejecting this challenge, the Court explained:

> We also are not convinced that the district court's order reflects an arbitrary or capricious exercise or manifest abuse of the district court's discretion

> that warrants a writ of mandamus. [ ] Even assuming that petitioner filed only one pleading titled as a postconviction petition for a writ of habeas corpus [ ], to the extent that this other creatively titled pleadings and documents challenged the validity of his judgment of conviction or the computation of time served pursuant to that judgment of conviction (as it appears some of them did), they had to be treated as postconviction petitions for writs of habeas corpus [ ]. We therefore cannot say based on the documents provided that the district court's interpretation and application of NRS 209.451 was clearly erroneous or that its decision was "founded on prejudice or preference rather than on reason."

Id. at 1–2 (internal citations omitted).

Because Defendant appears intent on continuing his campaign of filing duplicative, convoluted, and baseless pleadings, the State requested a determination of vexatious litigation. This Court grants that request, and as a consequence, orders Defendant to be referred to the Nevada Department of Corrections ("NDOC") for forfeiture of any earned credits on his sentences. As is clear from the procedural history in both of Defendant's criminal cases, Defendant has filed dozens of frivolous motions—often duplicated—and appealed almost every single ruling not in his favor. At times, he has even appealed where this Court has not yet issued a decision. See, e.g., District Court Case 08C250630, Notice of Appeal, filed November 21, 2014; O'Keefe v. State, Docket No. 66956, Order Dismissing Appeal (February 11, 2015), at 1.

Defendant's motions repeatedly raise the same meritless grounds for relief. For example; Defendant has alleged unconstitutional enhancement on his battery domestic violence convictions in two different petitions for writ of coram nobis, in 2013 and 2018, in 05C207835; Defendant has filed three motions to correct illegal sentence, all on different grounds in 2014, 2017, and 2018, in 08C250630; and since 2012, Defendant has continually raised issues of Double Jeopardy, most often by attempting to argue jurisdictional issues he alleges his federal appeal implicated. This Court and the Nevada Supreme Court have repeatedly rejected this last argument. See, e.g., O'Keefe v. State, Docket No. 61631, Order of Affirmance (April 10, 2013), at 2–3; District Court Case 08C250630, Court Minutes, August 14, 2014; O'Keefe v. State, Docket No. 69036, Order of Affirmance; District Court

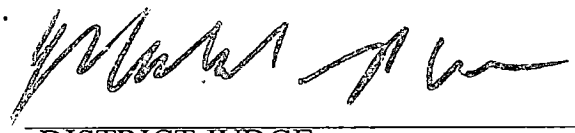
Case 08C250630, Minute Order, December 5, 2017. Defendant is currently litigating his fifth—untimely and duplicative—Petition for Writ of Habeas Corpus in 08C250630, in which he again raises the federal appeal / Double Jeopardy issue.

Defendant's continued filing of duplicative and baseless pleadings with this Court can only be construed as a bad faith litigation strategy designed to vex and harass the State and the Court, in violation of NRS 209.451(1)(d). Defendant will receive a penalty for his continual waste of the State's and the Court's time and resources.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the State's Motion to Declare Vexatious Litigant and to Refer Defendant to Department of Corrections for Forfeiture of Statutory Credits shall be, and it is, hereby GRANTED. Defendant is referred to the Department of Corrects for forfeiture of statutory credits. Further, though Defendant will be allowed to present to this Court any future pleadings, the Court will determine whether or not there is any legal bases for them, after which this Court would allow them to be filed and heard in due course.

DATED this _____ day of March, 2019.



DISTRICT JUDGE

MICHAEL P. VILLANI JM

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY Pamela Weckerly for
JOHN NIMAN
Deputy District Attorney
Nevada Bar #14408

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 25th day of March, 2019, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

BRIAN O'KEEFE #90244
LOVELOCK CORRECTIONAL CENTER
1200 Prison Road
Lovelock, NV 89419

BY /s/D. Daniels
Secretary for the District Attorney's Office

08F23348X/JN/ao/Appellate/dd-MVU

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5/1/2019 1:08 PM
Steven D. Grierson
CLERK OF THE COURT

NEO

DISTRICT COURT
CLARK COUNTY, NEVADA

BRIAN O'KEEFE, Petitioner, vs. THE STATE OF NEVADA, Respondent,	Case No: 08C250630 Dept No: XVII **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

PLEASE TAKE NOTICE that on April 4, 2019, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 1, 2019.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 1 day of May 2019, I served a copy of this Notice of Entry on the following:

☑ By e-mail:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☑ The United States mail addressed as follows:
Brian O'Keefe # 90244
1200 Prison Rd.
Lovelock, NV 89419

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk

Electronically Filed
4/4/2019 10:09 AM
Steven D. Grierson
CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN NIMAN
Deputy District Attorney
Nevada Bar #14408
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- BRIAN O'KEEFE, #1447732 Defendant.	CASE NO: 08C250630 DEPT NO: XVII

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

DATE OF HEARING: MARCH 12, 2019
TIME OF HEARING: 8:30 AM

THIS CAUSE having come on for hearing before the Honorable MICHAEL VILLANI, District Judge, on the 12th day of March, 2019, the Petitioner not being present, proceeding in proper person, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through ASHLEY A. LACHER, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

STATEMENT OF THE CASE: 05C207835

In an earlier case, Brian Kerry O'Keefe ("Defendant") was charged by way of Information, on January 7, 2005, with one count of Battery Constituting Domestic Violence

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(Felony – NRS 200.481, 200.485, 33.018).[1] Defendant proceeded to trial on September 19, 2005. On September 22, 2005, the jury returned a verdict of guilty on the one count charged in the Information.

On December 1, 2005, Defendant filed a Pro Per Motion for a New Trial. On December 22, 2005, the State filed its Opposition to the Motion for a New Trial. The court denied the Motion on January 10, 2006.

On March 2, 2006, Defendant was adjudicated guilty as charged in the Information and sentenced as follows: to a maximum of sixty (60) months and a minimum of twenty-four (24) months in the Nevada Department of Corrections (NDC), with three hundred eleven (311) days Credit For Time Served. Defendant's Judgment of Conviction was filed March 9, 2006.

Defendant filed a Notice of Appeal on March 14, 2006. The Nevada Supreme Court affirmed the Judgment of Conviction on August 14, 2006. See O'Keefe v. State, Docket No. 46938, Order of Affirmance (August 14, 2006). Remittitur issued September 8, 2006.

Defendant filed a Petition for Writ of Habeas Corpus (Post-Conviction) on November 15, 2006. The State filed its Opposition January 16, 2007. Defendant filed a Notice of Appeal on January 22, 2007. The court denied the Petition for Writ of Habeas Corpus (Post-Conviction) on January 25, 2007. Defendant filed additional Notices of Appeal on January 31, 2007 and February 27, 2007. The Findings of Fact, Conclusions of Law, and Order was filed on February 16, 2007, with Notice of Entry on February 20, 2007. Defendant's first appeal was dismissed on February 28, 2007. Remittitur issued on March 27, 2007. See O'Keefe v. State, Docket No. 48810, Order Dismissing Appeal (February 28, 2007). The Nevada Supreme Court affirmed the district court's denial of Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) on October 31, 2007. Remittitur issued on November 28, 2007. See O'Keefe v. State, Docket No. 48867, Order of Affirmance (October 31, 2007).

On December 19, 2013, Defendant filed a Petition for a Writ of Mandamus or in the Alternative Writ of Coram Nobis and Response to Motion to Appoint Counsel. On December 27, 2013 and December 30, 2013, respectively, Defendant filed a Notice of Motion and

[1] An Information containing the same charge was also filed July 15, 2005.

"Supplemental of Crucial Undisclosed Exculpatory Evidence of Ex-Rawson Neal Patient's Mental/Physical Health, Multiple Suicide Attempts, Anger Management Therapy, Self-Mutilations Erratic Behavior." The State filed its Opposition on September 8, 2014. This Court denied the pleadings on September 11, 2014. Defendant filed a Notice of Appeal on September 19, 2014. The Nevada Supreme Court affirmed this Court's denial; remittitur issued on February 20, 2015.

Defendant filed a Petition for Writ of Coram Nobis on December 17, 2018, regarding the criminal case in 05C207835 but under a separate A-case number: A-18-786320-W. The State filed its Opposition to that Petition on January 28, 2019. Defendant filed a Reply on February 19, 2019. The same day, Defendant also filed a "Motion to Strike State's Opposition to Plaintiff's Civil Petition for Writ of Coram Nobis Pursuant N.R.Civ.P 12 (f)(Untimely) Noting State Recognizes Action as Civil with IFP Granted and Notice of Petition for Writ." District Court Judge Tierra Jones heard the Petition and the Motion to Strike on February 28, 2019 and denied both.

STATEMENT OF THE CASE: 08C250630

In the instant case, Defendant was charged by way of Information on December 19, 2008 with one count of Murder with Use of a Deadly Weapon (Open Murder) (Felony – NRS 200.010, 200.030, 193.165).

Defendant proceeded to trial on March 16, 2009. On March 20, 2009, the jury returned a verdict of guilty on the charge of Second Degree Murder with Use of a Deadly Weapon. The Judgment of Conviction was filed on May 8, 2009. Defendant filed a direct appeal, and on April 7, 2010, the Nevada Supreme Court reversed and remanded his case for a new trial due to a jury instruction issue. Remittitur issued May 3, 2010.

Defendant proceeded to trial for a second time on August 23, 2010. On September 2, 2010, the district court declared a mistrial on account of a deadlocked jury.

On October 3, 2011, Defendant filed a Motion to Dismiss Appointed Counsel and for a Hearing Pursuant to Faretta v. Cal., 422 U.S. 806, 807 (1975). The district court conducted

a Faretta canvass on December 16, 2011, and dismissed Defendant's counsel, thus allowing Defendant to represent himself.

On March 6, 2012, Defendant filed a "Notice of Motion and Motion to Dismiss Based Upon Violation(s) of the Fifth Amendment Component of the Double Jeopardy Clause, Constitutional Collateral Estoppel and, Alternatively, Claiming Res Judicata, Enforceable by the Fourteenth Amendment Upon the States Precluding State's Theory of Prosecution by Unlawful Intentional Stabbing with Knife, the Alleged Battery Act Described in the Amended Information." On May 9, 2012, a federal court denied Defendant's Motion to Stay the State Court Proceedings. The federal court denied Defendant's renewed Motion on June 5, 2012.

Defendant proceeded to trial for a third time on June 11, 2012. On June 15, 2012, the jury returned a guilty verdict to Second Degree Murder with Use of a Deadly Weapon (Category A Felony – NRS 200.010, 200.030, 193.165).

On August 28, 2012, this Court sentenced Defendant as follows: a minimum of one hundred twenty (120) to a maximum of three hundred (300) months, plus a consecutive term of eight (8) to twenty (20) years for use of a deadly weapon, with 1,394 days credit for time served. This final Judgment of Conviction was filed on September 5, 2012.

A Notice of Appeal was filed on September 13, 2012. The Supreme Court affirmed Defendant's conviction on April 10, 2013. Remittitur issued July 23, 2013.

On December 6, 2013, Defendant filed a Petition for Writ of Mandamus or, in the Alternative, Writ of Coram Nobis and a Motion to Appoint Counsel. The State filed its Response on December 31, 2013. This Court denied the Petition and Motion without prejudice, as the allegations therein related to yet another of Defendant's cases, Case Number 04C202793. The written Order was filed on January 28, 2014.

On January 27, 2014, Defendant filed a Motion to Modify and/or Correct Illegal Sentence. The State filed the Opposition on February 24, 2014. This Court denied Defendant's Motion to Modify and/or Correct Illegal Sentence on February 27, 2014. On March 4, 2014, Defendant filed an untimely Reply.

On July 23, 2014, Defendant filed a "Motion for Relief from Judgment Based on Lack of Jurisdiction for U.S. Court of Appeals has Not Issued any Remand, Mandate or Remittitur." The State filed a Response on August 7, 2014. The Motion was denied on August 14, 2014. Defendant filed a Notice of Appeal on that denial on August 29, 2014. The Nevada Supreme Court Defendant's dismissed the appeal on September 24, 2014.

On August 28, 2014, Defendant filed a Pro Per Motion to "Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit Against Judge Michael Villani for Proceeding in Clear 'Want of Jurisdiction' Thereby Losing Immunity, Absolutely!" On August 29, 2014, Defendant filed a notice of Motion and "Motion for Leave of Court to File Motion for Rehearing – Pursuant to EDCR, Rule 2.24." The State filed Oppositions to both motions on September 12, 2014. Defendant's Pro Per Motion was referred to District Court Judge Togliatti and denied by Order on October 6, 2014.

Defendant filed a Post-Conviction Petition for Writ of Habeas Corpus on September 15, 2014, as well as Motion to Appoint Counsel. On October 3, 2014, Defendant filed an Amended Petition and Accompanying Exhibits. The State's Response and Motion to Dismiss to the Post-Conviction Petition for Writ of Habeas Corpus, Amended Petition and Accompanying Exhibits, the State's Opposition to Request for Evidentiary Hearing, and the State's Opposition to Defendant's Motion to Appoint Counsel was filed on October 10, 2014. On October 27, 2014, Defendant filed a Reply. On November 6, 2014, this court appointed counsel and set a supplemental briefing schedule. Oddly, Defendant filed a notice of appeal from the denial of his Petition on November 21, 2014. As the Petition was not denied, the Nevada Supreme Court dismissed Defendant's appeal on February 11, 2015.

On April 8, 2015, Defendant filed a Supplemental post-conviction Petition for Writ of Habeas Corpus. The State filed its Response on June 2, 2015.

On June 8, 2015, Defendant filed a pro per Motion to Withdraw Counsel. The State filed its Opposition on June 25, 2015. On June 30, 2015, this Court denied the Motion.

On June 15, 2015, Defendant filed a pro per Supplemental Petition for Writ of Habeas Corpus (Post-Conviction) and Evidentiary Hearing Request and "Motion to Leave to File

Supplemental Petition Addressing All Claims in the First Instance Required by Statute for Juridical Economy with Affidavit." On June 16, 2015, he filed a pro per "Reply to States' Response to Defendant's Pro Per Post Conviction Petition for Habeas Corpus," and on June 17, 2015, filed a pro per "Supplement with Notice Pursuant NRS 47.150(2); NRS 47.140(1), That the United States Supreme Court has Docketed (#14-10093) the Pretrial Habeas Corpus Matter Pursuant." The State's response was filed on July 9, 2015. Defendant's Petition was denied on September 4, 2015. A Findings of Fact, Conclusions of Law and Order was filed on October 2, 2015.

Defendant filed a Notice of Appeal on October 21, 2015, and an Amended Notice of Appeal on October 29, 2015. On December 8, 2015, the Nevada Supreme Court dismissed appeal 69121 challenging the denial of a Motion to Withdraw because such a challenge is unsupported by law. Remittitur issued January 4, 2016.

On June 22, 2016, the Nevada Supreme Court affirmed the district court's order denying Defendant's September 15, 2014, Petition for Writ of Habeas Corpus as untimely. On September 22, 2016, the Nevada Supreme Court denied rehearing. Remittitur issued December 16, 2016.

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On June 22, 2017, this Court denied Defendant's Motion to Transfer. On June 27, 2017, this Court denied Defendant's Petition. On July 6, 2017, this Court denied Defendant's Pro Per Motion of Clarification. An Order denying this last Motion was filed on July 26, 2017. On July 20, 2017, Defendant filed a Notice of Appeal regarding this Court's denial of the Petition. The Nevada Court of Appeals affirmed. Remittitur issued May 7, 2018.

In the latter half of 2017, Defendant filed several other frivolous motions. On July 11, 2017, Defendant filed an "Objection to the State Judiciarys Unlawful Conversion of Petitioners NRS 34.360 Habeas Corpus, also the Petitioner Reply and Objection to the State's Response to Defendants Petition for Writ of Habeas Corpus and Motion to Transfer to Chief Judge, Also Objection to the States' False Return of the Writ Serving to Overthrow the Function of NRS 34.360 Without Legislative Approval." On August 15, 2017, Defendant filed a "Petition for Writ of Habeas Corpus Under NRS 34.360 See NRS 34.500 Based on Violations of Federal and State Due Process (Procedural) by Depriving Protected Liberty Interest of O'Keefe's Briefing Schedule Set by Order to Hold Pretrial Hearing of O'Keefe's "Abney" Appeal When the State, Despite Being Noticed of Writ Order (2252), Disavowed Sub - Silentio the Declaratory Judgment Issued (2253) that Provided a Binding Adjudication Thereby Establishing O'Keefe's Constitutional Rights as an Equitable Remedy Expressing the Circuit Court's Exercise of (2241) Jurisdiction of O'Keefe's (2241) Pretrial Petition Determined by the Merits (COA) Panel to Manifest a Colorable Double Jeopardy Clause Affirmative Constitutional Pretrial Defense Before the Third Trial and Wrongful Conviction Which Under the Law Said Order (2253) Acted as a Direct Injunction and can Never be Waved or Forfeited and Attached as Exhibit A Incorporated Here by Reference to Include all SCOTUS Authorities, Federal Statues and Federal Law."

On August 16, 2017, Defendant filed a Motion to Correct Illegal Sentence. On August 22, 2017, Defendant filed a "Notice of Motion and Motion to Set Hearing of Plaintiff's Motion To Correct Illegal Sentence as to Afford Proper procedural Due Process With Time For Plaintiff's Reply To State's Response." ("Notice") The State responded on August 30, 2017.

On September 7, 2017, this Court determined that it lacked jurisdiction to hear the Motion because at that point, Defendant's appeal to the Nevada Supreme Court remained outstanding.

In the first half of September 2017, Defendant filed a slew of additional notices and frivolous motions. On September 6, 2017, Defendant filed a "Motion to Strike and Object to Direct Case Number Assigned and Request Independent Habeas Corpus No. Under NRS 34.360 Pursuant Liberty Interest and Due Process of Law Under XIV Amendment," a "Motion to Waive Any Ostensible Oral Argument, By Personal Appearance, Thereby Requesting any Pro Se Appearance to be Conducted Via Telephonically," and a "Motion to Object...NRS 34.360." On September 7, 2017, Defendant field a "Motion to Object to Court Clerk Filing Petition for Habeas Corpus Under NRS 34.360 as a Direct Action Thereby Unlawfully Recharacterizing New Independent Civil Suit as a Proceeding in The Original Action Denying The 'Liberty Clause'" and a "Supplemental Sentencing Exhibit as 'C' Incorporated Herein By Reference to Defendant's Motion to Correct Illegal Sentence Tentatively Scheduled 9/07/2017 08:30am." On September 12, 2017, Defendant filed a "Motion to Strike State's Untimely Opposition to Defendant's Motion to Correct Illegal Sentence." On September 14, Defendant filed a "Notice and Reply to State's Opposition to Defendant's Motion to Correct Illegal Sentence Untimely Served and Filed Supported by Incoming Legal Mail Log as Exhibit 'A'."

The State filed its Response to all of these pleadings on September 25, 2017. This Court held a hearing on November 30, 2017, and denied Petitioner's claims. Defendant filed a Motion for Reconsideration on February 14, 2018. The State filed its Opposition on March 2, 2018. This Court denied the Motion on March 8, 2018.

Defendant filed a third Motion to Correct Illegal Sentence on October 2, 2018. The State filed its Opposition on October 18, 2018. This Court denied the Motion on October 25, 2018. Defendant filed a Notice of Appeal on November 21, 2018. That appeal seems to be pending. See O'Keefe v. State, Docket No. 77541.

Defendant had filed a Petition for Writ of Habeas Corpus—his fifth—on September 21, 2017. In full, the document was titled, "Petition for Writ of Habeas Corpus under NRS 34.360 – See NRS 34.500 – Based on Violations of Federal and State Due Process (Procedural) by

Depriving Protected Liberty Interest of O'Keefe's Briefing Schedule Set by Order to Hold Pretrial Hearing of O'Keefe's 'Abney' Appeal When the State, Despite Being Noticed of Writ Order (225.8) Disavowed Sub-Silentio the Declaratory Judgment Issued (285.3) that Provided a Binding, Adjudication Thereby Establishing O'Keefe's Constitutional Rights as an Equitable Remedy Expressing the Circuit Court's Exercise of (224.1) Jurisdiction of O'Keefe's (224.1) Pretrial Petition Determined by the Merits (COA) Panel to Manifest a Colorable Double Jeopardy Clause Affirmative Constitutional Pretrial Defense Before the Third Trial and Wrongful Conviction Which Under the Law Said Order (225.3) Acted as Direct Injunction and Can Never Be Waived or Forfeited and Attached as Exhibit 'A' Incorporated Here by Reference to Include All SCOTUS Authorities, Federal Statutes and Federal Law." This Court dismissed this Petition as being filed under the wrong case number and in the wrong department; the Nevada Court of Appeals reversed that decision and remanded the Fifth Petition because it is the responsibility of the clerk of court to correctly file the petition. See O'Keefe v. Renee Baker (Warden), Docket No. 74598, Order of Reversal and Remand. This Court issued an Order for Petition for Writ of Habeas Corpus on December 12, 2018. The State filed its Response on December 31, 2018. Defendant filed a "Motion for Relief from PPOW Filed Dec 12 2018 Pursuant to NRCP 60(b)(3)(4)" on December 31, 2018. This Court heard the December 31 Motion on January 22, 2019, but continued the hearing so that Defendant's pending Fifth Petition in this same case might be heard on the same day.

The State filed the instant Motion to Declare Vexatious Litigant and to Refer Defendant to Department of Corrections for Forfeiture of Statutory Credits on January 28, 2019. At the scheduled February 12, 2019 hearing, this Court continued the matter to give Defendant an opportunity to file an opposition. Defendant filed his Opposition, which he titled "Defendant's Opposition to States Retaliatory Motion to Declare Vexatious Litigant... Where Federal Counsel Appointed by Order of 9th Cir Declared in Full Briefing O'Keefe to be Prolific," on February 19, 2019 and a Supplement to the Opposition on February 25, 2019. The State filed its Reply on February 25, 2019. This Court heard the State's Motion on March 12, 2019.

///

ANALYSIS

Defendant has abused access to this Court, and indeed Nevada's appellate courts, in a vexatious manner by repeatedly re-litigating issues that have been rejected by this Court as without merit. Referral to the Department of Corrections for the loss of statutory credits may dissuade Defendant from further abusing the Court and the State.

The United States Supreme Court has recognized "that prisoners have a constitutional right of access to the courts." Bounds v. Smith, 430 U.S. 817, 821, 97 S.Ct. 1491 (1977). That right of access, however, may be counterbalanced by the traditional right of courts to manage their dockets and limit abusive filings. See In re McDonald, 489 U.S. 180, 184, 109 S.Ct. 993, 996 (1989) (per curiam). "[T]here is no constitutional right to file frivolous litigation." Wolfe v. George, 486 F.3d 1120, 1125 (9th Cir. 2007). Indeed, as Judge Easterbrook of the Seventh Circuit has noted:

> An argument in the teeth of the law is vexatious, and a criminal defendant who chooses to harass his prosecutor may not do so with impunity. The time of prosecutors is valuable. If a defendant multiplies the proceedings, this takes time that could more usefully be devoted to other prosecutions. When a defendant makes an argument so empty that no responsible lawyer could think the argument supportable by any plausible plea for a change in the law the court may reply with a penalty.

State of Wis. v. Glick, 782 F.2d 670, 673 (7th Cir. 1986).

The Nevada Supreme Court has held that a "district court may restrict a litigant from filing petitions and motions that challenge a judgment of conviction[.]" Jones v. Eighth Judicial District Court, 130 Nev. __, __, 330 P.3d 475, 477 (2014). However, prior to imposing such a serious limitation upon a defendant's access to the courts, "the district court must also consider whether there are other, less onerous sanctions available to curb the repetitive or abusive activities." Id. at __, 330 P.3d at 480. The Jones Court noted that one such "available sanction is to refer the litigant to the Department of Corrections for the forfeiture of credits previously earned[.]" Id. The Legislature has empowered the Department of Corrections with

the authority to impose meaningful consequences for prisoners who abuse their access to the courts:

> 1. If an offender:
>
> ...
>
> (d) In a civil action, in state or federal court, is found by the court to have presented a pleading, written motion or other document in writing to the court which:
>
> (1) Contains a claim or defense that is included for an improper purpose, including, without limitation, for the purpose of harassing the offender's opponent, causing unnecessary delay in the litigation or increasing the cost of the litigation;
>
> (2) Contains a claim, defense or other argument which is not warranted by existing law or by a reasonable argument for a change in existing law or a change in the interpretation of existing law; or
>
> (3) Contains allegations or information presented as fact for which evidentiary support is not available or is not likely to be discovered after further investigation.
>
> the offender forfeits all deductions of time earned by the offender before the commission of that offense or act, or forfeits such par of those deductions as the Director considers just.

NRS 209.451(1)(d). Collateral proceedings are within the ambit of this statute. NRS 209.451(5).

In a recently issued decision, the Nevada Supreme Court denied a petition for writ of mandamus in which the petitioner had raised a challenge to the district court's order referring him to the Department of Corrections for forfeiture of statutory credits. Alexander v. State, Docket No. 72002 (Order Denying Petition, filed January 12, 2017). In rejecting this challenge, the Court explained:

> We also are not convinced that the district court's order reflects an arbitrary or capricious exercise or manifest abuse of the district court's discretion

> that warrants a writ of mandamus. [ ] Even assuming that petitioner filed only one pleading titled as a postconviction petition for a writ of habeas corpus [ ], to the extent that this other creatively titled pleadings and documents challenged the validity of his judgment of conviction or the computation of time served pursuant to that judgment of conviction (as it appears some of them did), they had to be treated as postconviction petitions for writs of habeas corpus [ ]. We therefore cannot say based on the documents provided that the district court's interpretation and application of NRS 209.451 was clearly erroneous or that its decision was "founded on prejudice or preference rather than on reason."

Id. at 1–2 (internal citations omitted).

Because Defendant appears intent on continuing his campaign of filing duplicative, convoluted, and baseless pleadings, the State requested a determination of vexatious litigation. This Court grants that request, and as a consequence, orders Defendant to be referred to the Nevada Department of Corrections ("NDOC") for forfeiture of any earned credits on his sentences. As is clear from the procedural history in both of Defendant's criminal cases, Defendant has filed dozens of frivolous motions—often duplicated—and appealed almost every single ruling not in his favor. At times, he has even appealed where this Court has not yet issued a decision. See, e.g., District Court Case 08C250630, Notice of Appeal, filed November 21, 2014; O'Keefe v. State, Docket No. 66956, Order Dismissing Appeal (February 11, 2015), at 1.

Defendant's motions repeatedly raise the same meritless grounds for relief. For example; Defendant has alleged unconstitutional enhancement on his battery domestic violence convictions in two different petitions for writ of coram nobis, in 2013 and 2018, in 05C207835; Defendant has filed three motions to correct illegal sentence, all on different grounds in 2014, 2017, and 2018, in 08C250630; and since 2012, Defendant has continually raised issues of Double Jeopardy, most often by attempting to argue jurisdictional issues he alleges his federal appeal implicated. This Court and the Nevada Supreme Court have repeatedly rejected this last argument. See, e.g., O'Keefe v. State, Docket No. 61631, Order of Affirmance (April 10, 2013), at 2–3; District Court Case 08C250630, Court Minutes, August 14, 2014; O'Keefe v. State, Docket No. 69036, Order of Affirmance; District Court

Case 08C250630, Minute Order, December 5, 2017. Defendant is currently litigating his fifth—untimely and duplicative—Petition for Writ of Habeas Corpus in 08C250630, in which he again raises the federal appeal / Double Jeopardy issue.

Defendant's continued filing of duplicative and baseless pleadings with this Court can only be construed as a bad faith litigation strategy designed to vex and harass the State and the Court, in violation of NRS 209.451(1)(d). Defendant will receive a penalty for his continual waste of the State's and the Court's time and resources.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the State's Motion to Declare Vexatious Litigant and to Refer Defendant to Department of Corrections for Forfeiture of Statutory Credits shall be, and it is, hereby GRANTED. Defendant is referred to the Department of Corrects for forfeiture of statutory credits. Further, though Defendant will be allowed to present to this Court any future pleadings, the Court will determine whether or not there is any legal bases for them, after which this Court would allow them to be filed and heard in due course.

DATED this _____ day of March, 2019.

DISTRICT JUDGE

MICHAEL P. VILLANI JM

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY Pamela Weckerly for
JOHN NIMAN
Deputy District Attorney
Nevada Bar #14408

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 25th day of March, 2019, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

BRIAN O'KEEFE #90244
LOVELOCK CORRECTIONAL CENTER
1200 Prison Road
Lovelock, NV 89419

BY /s/D. Daniels
Secretary for the District Attorney's Office

08F23348X/JN/ao/Appellate/dd-MVU

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **January 06, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

January 06, 2009 **9:00 AM** **Initial Arraignment** **INITIAL ARRAIGNMENT Court Clerk: Nora Pena/np Relief Clerk: Dameda Scott Reporter/Recorder: Kiara Schmidt Heard By: Kevin Williams**

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

O'Keefe, Brian K	Defendant
Pace, Barter G.	Attorney
Pike, Randall H.	Attorney
Schieck, David M.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- Mr. Schieck asked to let the District Court 17 set the trial date. COURT ORDERED, matter set for entry of plea and trial date.
CUSTODY
1/20/09 8:00 AM ENTRY OF PLEA/TRIAL SETTING - DEPT 17

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **January 20, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

January 20, 2009	**8:00 AM**	**Entry of Plea**	**ENTRY OF PLEA/TRIAL SETTING Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani**

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- DEFT. OKEEFE ARRAIGNED, PLED NOT GUILTY and INVOKED THE 60-DAY RULE. Mr. Smith stated the State is going to INVOKE the 60 day rule as well. COURT ORDERED, matter set for trial. CUSTODY
3/10/09 8:00 AM CALENDAR CALL
3/16/09 10:00 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **February 10, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

February 10, 2009	**8:00 AM**	**All Pending Motions**	**ALL PENDING MOTIONS 2-10-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani**

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS...STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS

Arguments by counsel. COURT ORDERED, Deft's Petition for Writ of Habeas Corpus DENIED; State's Motion to Admit Evidence of Other Crimes will be set for a Petrocelli Hearing. Amended Information FILED IN OPEN COURT.

NDC

2/26/09 10:00 AM EVIDENTIARY HEARING: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **February 26, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

February 26, 2009 **10:00 AM** **Evidentiary Hearing** **EVIDENTIARY HRG: STATE'S MTN TO ADMIT EVIDENCE OF OTHER CRIMES WRONGS OR ACTS**
Court Clerk: Kristen Brown
Reporter/Recorder: Michelle Ramsey
Heard By: Villani, Michael

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED.
NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 10, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

March 10, 2009	**8:00 AM**	**All Pending Motions**	**ALL PENDING MOTIONS 3-10-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani**

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- CALENDAR CALL...DEFT'S MOTION TO REQUIRE COURT TO ADVISE JURORS AS TO MANDATORY SENTENCES
Counsel stated they are ready to proceed to trial which will take 3-4 days. Mr. Pike stated that he has 5 witnesses in addition to the State's witnesses and one is out of state; further, has a signed Stipulation and Order Waiving the Penalty Hearing but will withhold filing it until after the jury is seated. Arguments by counsel regarding Deft's Motion. COURT ORDERED, Deft's Motion to Require Court to Advise Juror's as to Mandatory Sentences DENIED; Trial date STANDS.
NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 16, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

March 16, 2009	**9:30 AM**	**All Pending Motions**	**ALL PENDING MOTIONS 3-16-09 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani**

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

Graham, Stephanie	Attorney
O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- EVIDENTIARY HEARING: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS...TRIAL BY JURY

Arguments by counsel. COURT ORDERED, Motion GRANTED. Jury and 2 alternates selected and sworn. Court Clerk read the Amended Information and stated the deft's plea thereto. Opening statements by counsel. Testimony and exhibits presented (See worksheets). COURT ORDERED, matter CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 17, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

March 17, 2009 **9:30 AM** **Jury Trial** **TRIAL BY JURY**
Court Clerk: Kristen Brown/A.M. Relief Clerk: Shelly Landwehr/P.M.
Reporter/Recorder: Michelle Ramsey
Heard By: Villani, Michael

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

Graham, Stephanie	Attorney
O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Court advised counsel Juror #12's apartment flooded and will not be able to return as he has to be present to solve the problem.
JURY PRESENT: Testimony and exhibits presented (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm moved for a mistrial and dismissal. Arguments by counsel. COURT ORDERED, Motion DENIED.
JURY PRESENT: Testimony and exhibits presented (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm moved for a mistrial and dismissal regarding testimony from Officer Hutchinson. Arguments by counsel. COURT ORDERED, Motion DENIED, Court finds statement was not a Discovery violation, it was memorialized, not undue prejudice.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 18, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

March 18, 2009 **9:45 AM** **Jury Trial** **TRIAL BY JURY**
Court Clerk: Kristen Brown
Reporter/Recorder: Michelle Ramsey
Heard By: Villani, Michael

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

Graham, Stephanie	Attorney
O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel. Ms. Palm moved for a mistrial and dismissal. Further argument by counsel. COURT ORDERED, Motion DENIED but will allow the defense to call the officer's back and question them about the report.
JURY PRESENT: Testimony and exhibits presented (See worksheets).
OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel regarding the note by witness Hutchison. COURT ORDERED, the report is not coming in at this point.
JURY PRESENT: Testimony and exhibits presented (See worksheets).
OUTSIDE THE PRESENCE OF THE JURY: Court advised counsel that it observed a few of the jurors speaking with one of the witnesses. Jurors 3, 6 & 7 questioned.

JURY PRESENT: Testimony and exhibits presented (See worksheets). COURT ORDERED, matter CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 19, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

March 19, 2009 **9:00 AM** **Jury Trial** **TRIAL BY JURY**
Court Clerk: Kristen Brown
Reporter/Recorder: Michelle Ramsey
Heard By: Villani, Michael

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

Graham, Stephanie	Attorney
O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- JURY PRESENT: State rests. Testimony and exhibits presented (See worksheets). COURT ORDERED, matter CONTINUED.
OUTSIDE THE PRESENCE OF THE JURY: Court advised the Deft. of his rights not to testify.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 20, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

March 20, 2009 **9:00 AM** **Jury Trial** **TRIAL BY JURY**
Court Clerk: Kristen Brown
Reporter/Recorder: Michelle Ramsey
Heard By: Michael Villani

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

Graham, Stephanie	Attorney
O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel regarding the victims medical records. Court stated its findings and ORDERED, Motion to Allow the Medical Records be Introduced DENIED but will allow testimony that the victim attempted to commit suicide two days prior to the incident.
JURY PRESENT: Testimony and exhibits presented (See worksheets). Defense rests.
OUTSIDE THE PRESENCE OF THE JURY: Instructions settled on the record.
JURY PRESENT: Court instructed the jury. Closing arguments by counsel. At the hour of 4:10 pm, the jury retired to deliberate. At the hour of 7:15 pm, the jury returned with a VERDICT of GUILTY of SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON. Court THANKED and

EXCUSED the jury. COURT ORDERED, Deft. REMANDED TO CUSTODY and matter referred to Parole and Probation and set for sentencing.
CUSTODY
5/05/09 8:00 AM SENTENCING

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **April 07, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

April 07, 2009 **8:00 AM** **Motion** **DEFT'S MTN TO SETTLE RECORD/13**
Court Clerk: Kristen Brown
Reporter/Recorder: Michelle Ramsey
Heard By: Michael Villani

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- Arguments by counsel. Court stated the record is clear.
NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **May 05, 2009**

08C250630 The State of Nevada vs Brian K O'Keefe

May 05, 2009 **8:00 AM** **Sentencing** **SENTENCING**
Court Clerk: Kristen Brown Relief Clerk: Dameda Scott/ds
Reporter/Recorder: Michelle Ramsey
Heard By: Michael Villani

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
Pike, Randall H.	Attorney
Smith, Phillip N.	Attorney

JOURNAL ENTRIES

- Argument by State. Statements by Defendant and counsel. Ms. Palm requested corrections to the original Pre-Sentence Investigation Report. COURT ORDERED, Pre-Sentence Investigation Report amended by interlineation and incorporated into the court file copy as follows: Page 1, 20 years; Page 4, Juvenile Offense; Page 7, deleted sentence regarding a knife; Page 8, Section 9, Paragraph 2. COURT NOTED, those items were not considered by this Court.
DEFT. O'KEEFE ADJUDGED GUILTY of COUNT 1 - 2ND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F). COURT ORDERED, in addition to the $25.00 Administrative Assessment fee, and a $150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED ON COUNT 1 - 2ND DEGREE MURDER (F) to a MINIMUM of TEN (10) YEARS and a MAXIMUM of TWENTY-FIVE (25) YEARS in the Nevada Department of Corrections (NDC), plus a

CONSECUTIVE MINIMUM OF NINETY-SIX (96) MONTHS and a MAXIMUM of TWO-HUNDRED FORTY (240) MONTHS in the Nevada Department of Corrections (NDC) for the USE OF A DEADLY WEAPON, to run CONSECUTIVE TO COUNT 1, with 181 DAYS credit for time served. BOND, if any, EXONERATED.
NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **April 29, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

April 29, 2010 **8:15 AM** **Status Check** **STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL Court Clerk: Carol Donahoo Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael**

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

Hendricks, Craig L.	Attorney
Schieck, David M.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- Deft. O'Keefe incarcerated in the Nevada Department of Corrections (NDC) and not present. Mr. Schieck advised the Remittitur has not been issued by the Supreme Court yet; further, Randall Pike, SPD, will be handling this matter and he is still recovering from surgery. Mr. Schieck requested the matter be CONTINUED. COURT SO ORDERED.
NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **May 20, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

May 20, 2010 **8:15 AM** **Status Check** **STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL Court Clerk: Carol Donahoo Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani**

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

Graham, Stephanie	Attorney
Jackson, Alzora B.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- Deft. O'Keefe incarcerated in the Nevada Department of Corrections (NDC) and not present. Court Services advised Deft. was not transported; Ms. Jackson advised Deft. should really be present. Therefore, COURT ORDERED, matter CONTINUED.
NDC
CONTINUED TO: 06/10/10 8:15 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 10, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

June 10, 2010 **8:15 AM** **All Pending Motions** **ALL PENDING MOTIONS (6/10/10) Relief Clerk: Susan Jovanovich /sj Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani**

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

Lavell, Maria	Attorney
O'Keefe, Brian K	Defendant
Pike, Randall H.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- STATUS CHECK: SUPREME COURT REMAND / RESET TRIAL...MOTION FOR JUDICIAL RULING
Michael Hyte, Deputy Special Public Defender (Bar # 10088), also present.
Ms. Lavell advised she was just assigned onto the case this morning. Colloquy regarding additional subpoenas to be served for additional medical records, and HIPPA protection guidelines. Arguments by Mr. Pike. Matter submitted by State. COURT ORDERED, Motion GRANTED. Court advised counsel to have redactions of sensitive information done on medical records. Ms. Lavell requested an in-camera view be done on these records upon being received by counsel. Colloquy regarding resetting trial date. Statements by Deft. MATTER TRAILED for Court to review current trial schedule. RECALLED. Mr. Pike advised this matter is overflow eligible, and requested additional

time to prepare pre-trial briefs. COURT SO ORDERED. FURTHER, trial date SET. At request of counsel, COURT ORDERED, Deft. REMANDED into CUSTODY on this matter.
CUSTODY
8-17-10 8:15 AM CALENDAR CALL
8-23-10 10:00 AM TRIAL BY JURY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 12, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 12, 2010 **8:15 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE TO SUPPRESS HIS STATEMENTS TO POLICE OR, ALTERNATIVELY, TO PRECLUDE THE STATE FROM INTRODUCING PORTIONS OF HIS INTERROGATION . . . NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE TO ADMIT EVIDENCE SHOWING LVMPD HOMICIDE DETECTIVES HAVE PRESERVED BLOOD/BREATH ALCOHOL EVIDENCE IN ANOTHER RECENT CASE

Christopher Lalli, Asst DA, present on behalf of the State and Patricia Palm. Esq., present on behalf of Deft. O'Keefe, who is also present.

At counsels request, COURT ORDERED, the two (2) above-named Motions shall be CONTINUED to August 19, 2010.

NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE FOR DISCOVERY: Arguments by counsel. COURT ORDERED, Motion GRANTED IN PART; the last known addresses of any lay witnesses and any information that would help identify any Felony convictions for those witnesses shall be provided.

NOTICE OF MOTION AND MOTION BY DEFENDANT O KEEFE FOR EVIDENTIARY HEARING ON WHETHER THE STATE AND CCDC HAVE COMPLIED WITH THEIR OBLIGATIONS WITH RESPECT TO THE RECORDING OF A JAIL VISIT BETWEEN O KEEFE AND STATE WITNESS

CHERYL MORRIS: Ms. Palm advised this matter is resolved and, therefore, stated she would WITHDRAW said Motion. COURT ORDERED, Motion WITHDRAWN.

Colloquy regarding the trial. Counsel expect the trial will take five (5) days.

Ms. Palm to prepare the Order approved as to form and content by Mr. Lalli.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 17, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 17, 2010 **8:15 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carole D'Aloia

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

Lalli, Christopher J	Attorney
O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- MOTION BY DEFENDANT O'KEEFE TO ADMIT EVIDENCE PERTAINING TO THE ALLEGED VICTIM'S MENTAL HEALTH CONDITION AND HISTORY, INCLUDING PRIOR SUICIDE ATTEMPTS, ANGER OUTBURSTS, ANGER MANAGEMENT THERAPY, SELF-MUTILIZATION AND ERRATIC BEHAVIOR...MOTION BY DEFENDANT O'KEEFE TO PRECLUDE THE STATE FROM INTORDUCTION AT TRIAL OTHER ACT OR CHARACTER EVIDENCE AND OTHER EVIDENCE WHICH IS UNFAIRLY PREJUDICIAL OR WOULD VIOLATE HIS CONSTITUTIONAL RIGHTS...MOTION BY DEFENDANT O'KEEFE TO SUPPRESS HIS STATEMENTS TO POLICE OR ALTERNATIVELY TO PRECLUDE THE STATE FROM INTRODUCING PORTIONS OF HIS INTERROGATION...MOTION BY DEFENDANT OKEEFE TO ADMIT EVIDENCE SHOWING LVMPD HOMICIDE DETECTIVES HAVE PRESERVED BLOOD/BREATH ALCOHOL EVIDENCE IN ANOTHER RECENT CASE

As to the first three (3) motions on the calendar, Court advised that it did not receive courtesy copies and, therefore, is not ready to make a ruling and, ORDERED, matter CONTINUED to Thursday. Court directed counsel to provide coutesy copies of all their pleadings to Court because although they have been filed, they have not been imaged and, therefore, are not accessible to the Court. As to Defendant's motion to admit evidence showing LVMPD homicide detectives have preseerved

blood/breath alcohol evidence in another recent case, following arguments by counsel, COURT ORDERED, motion DENIED, noting its' original ruling stands. Mr. Lalli advised

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 19, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 19, 2010 **8:15 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Conference at the Bench. MOTION BY DEFT. O'KEEFE TO PRECLUDE THE STATE FROM INTRODUCTION AT TRIAL OTHER ACT OR CHARACTER EVIDENCE AND OTHER EVIDENCE WHICH IS UNFAIRLY PREJUDICIAL OR WOULD VIOLATE HIS CONSTITUTIONAL RIGHTS: This Motion has nine parts and is GRANTED in part and DENIED in part as follows:

a. The State should be precluded from introducing evidence showing that O'Keefe had claimed to Cheryl Morris that he could kill anyone with a knife and had demonstrated how he would kill with knives - Arguments by counsel. Court noted that it previously ruled that the statement is admissible and it is relevant. Therefore, COURT ORDERED, Motion DENIED.

b. The State should be limited to presenting the Judgment of Conviction for Felony Domestic Violence with the redaction to omit the reference to a concurrent sentence - Arguments by counsel. COURT ORDERED, Motion GRANTED.

c. The State should be precluded from introducing any evidence of a sexual assault allegation related to O'Keefe's prior burglary conviction - Arguments by counsel. Mr. Lalli advised the State does not intend to admit this evidence unless the door is opened. COURT ORDERED, Motion GRANTED.

d. The State should be precluded from introducing the term "Sexual Assault Kit" with reference to the DNA collection here or referring to any sexual assault - Arguments by counsel. Mr. Palm advised the parties have agreed to call the Sexual Assault Kit a DNA Collection Kit. COURT ORDERED, Motion GRANTED.

e. The State should be precluded from introducing photographs of Whitmarsh's bruises, which cannot be linked to the time of the incident here - Arguments by counsel. COURT ORDERED, Motion DENIED.

f. The State should be precluded from introducing any reference to racial slurs allegedly made by O'Keefe - Arguments by counsel. COURT ORDERED, Motion GRANTED.

g. The State should be precluded from introducing the hearsay statement of Charles Tolliver that O'Keefe killed Whitmarsh - Arguments by counsel. COURT ORDERED, Motion GRANTED; the statement "Baby, he done killed that Girl" shall be excluded.

MOTION BY DEFT. O'KEEFE TO PRECLUDE EXPERT TESTIMONY: Ms. Palm advised this is related to letter "H" of the above-referenced Motion. COURT ORDERED, this issue will be CONTINUED as the Court would like to review the Case Law. FURTHER, letter "I" of the above-referenced Motion will also be CONTINUED.

MOTION BY DEFT. O'KEEFE TO SUPPRESS HIS STATEMENTS TO POLICE OR, ALTERNATIVELY, TO PRECLUDE THE STATE FROM INTRODUCING PORTIONS OF HIS INTERROGATION: COURT ORDERED, Motion CONTINUED.

Mr. Lalli requested leave of Court to file a Second Amended Information. There being no objection by Ms. Palm, COURT ORDERED, request GRANTED; Second Amended Information FILED IN OPEN COURT.

STATUS CHECK: AVAILABILITY OF DR. BENJAMIN FOR TRIAL: Ms. Palm presented a Motion by Deft. O'Keefe to Preclude Late Noticed Expert Testimony from Dr. Dutra, which was FILED IN OPEN COURT. Mr. Lalli advised that if they cannot get Dr. Benjamin here to testify, the State would like to call Dr. Dutra. Arguments by counsel. COURT FINDS, the State has exercised due diligence in trying to locate Dr. Benjamin in order to obtain her testimony at trial. Of paramount importance in this case is the analysis of the injuries, how they were sustained, and whether they were self-inflicted. Mr. Lalli advised he would continue to try and contact Dr. Benjamin but if the State cannot locate her, the State would like to call Dr. Dutra.

MOTION BY DEFT. O'KEEFE TO ADMIT EVIDENCE PERTAINING TO THE ALLEGED VICTIM'S MENTAL HEALTH CONDITION AND HISTORY, INCLUDING PRIOR SUICIDE ATTEMPTS, ANGER OUTBURSTS, ANGER MANAGEMENT THERAPY, SELF-MUTILATION, AND ERRATIC BEHAVIOR: Arguments by counsel. Court directed counsel to go through the records to see if there

are any agreements. Counsel to provide the Court with the records they agree upon as well as the records they disagree on. The Court will then rule on said records during the trial.

CUSTODY

CONTINUED TO: 08/20/10 8:15 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 20, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 20, 2010	**8:15 AM**	**Motion**	**Motion By Defendant O'Keefe To Suppress His Statements To Police Or Alternatively To Preclude The State From Introducing Portions Of His Interrogation**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Colloquy regarding the statement made by Deft. to Officer Ballejos. Deft. was in custody but had not been given the Miranda warning. COURT FINDS, that due to the nature of the statements and what the Police Officer knew at the time, the statements do not fall within the public safety exception. Therefore, COURT ORDERED, the statement is excluded.

Ms. Palm is requesting that Deft.'s statement made during the recorded interrogation by homicide detectives be stricken in its entirety. COURT FINDS, that even though Deft. was intoxicated, under the totality of the circumstances, his statement was freely and voluntarily given. Court and counsel proceed and discuss the particular portions of Deft.'s statement, which must be suppressed. The

ruling as to each specific statement is as stated on the record in open court.

Ms. Palm advised there are a few other issues that need to be resolved. With regard to Detective Wildemann, Mr. Lalli advised the State is withdrawing the Notice of Expert; however, he will still be testifying. The Detective will say that in homicides he has investigated, it is not uncommon for the stabber to cut himself; colloquy. Court will allow the testimony but the Detective cannot say "and that is what happened here."

With regard to any reference to the prior trial, counsel have stipulated to using the words, "prior testimony" or "prior proceedings."

Court noted Jury Trial will begin Monday, August 23, 2010, at 10:00 a.m.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 23, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 23, 2010 **10:00 AM** **Jury Trial**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

10:21 a.m. Jury Trial commenced.

Court and counsel begin Voir Dire examination of the prospective Jurors.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Court canvassed Juror No. 0229 for the reasons stated on the record.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continued.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Ms. Palm is seeking to admit evidence pertaining to the victim's Mental Health condition and history. Colloquy regarding the excerpts from the victim's medical records. Excerpts from Medical Records of Victim marked for identification and ADMITTED as Court's Exhibit 1. Deft.'s Proposed Jury Instructions FILED IN OPEN COURT.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continued.

5:35 a.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

CUSTODY

CONTINUED TO: 08/24/10 10:00 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 24, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 24, 2010 **10:00 AM** **Jury Trial**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

10:30 a.m. Jury Trial resumed. Court and counsel continue Voir Dire examination of the prospective Jurors.

5:00 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

CUSTODY

CONTINUED TO: 08/25/10 9:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 25, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 25, 2010 **9:30 AM** **Jury Trial**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dept DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

9:43 a.m. Jury Trial commenced. Court and counsel continue Voir Dire examination of the prospective Jurors. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Colloquy regarding redaction issues with regard to the video of Deft.'s interview with the police.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continues.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Court canvassed Prospective Juror No. 0210. For the reasons stated on the record, COURT ORDERED, Prospective Juror No. 0210 shall be EXCUSED.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the prospective Jurors continues.

Jury and two (2) alternates selected and sworn. Clerk read the Second Amended Information to the Jury and stated the Deft.'s plea thereto. Opening statements by Mr. Lalli and Ms. Palm. Testimony and exhibits presented (see worksheets).

5:35 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

CUSTODY

CONTINUED TO: 08/26/10 10:00 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 26, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 26, 2010 **10:00 AM** **Jury Trial**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dept DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

10:00 a.m. Jury Trial resumed.

OUTSIDE THE PRESENCE OF THE JURY: Court and counsel discuss the issues surrounding the video of Deft.'s interview with the police and the redactions made by the State. Ms. Palm would like to have certain information added back to the disc.

JURY PRESENT; Testimony and exhibits presented (see worksheets).

5:30 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

CUSTODY

CONTINUED TO: 08/27/10 11:00 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 27, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 27, 2010 **11:00 AM** **Jury Trial**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

11:45 a.m. Jury Trial resumed.

Testimony and evidence presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: State is objecting to a demonstration by the witness, George Schiro, and Ms. Palm as to how the wound to the victim may have been inflicted. COURT ORDERED, the demonstration may continue.

JURY PRESENT: Testimony and evidence presented (see worksheets).

6:30 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

CONTINUED TO: 08/30/10 9:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 30, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 30, 2010 **9:30 AM** **Jury Trial**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

9:43 a.m. Jury Trial resumed.

OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm is requesting a limited Jury Instruction regarding the testimony by the witness, Cheryl Morris, where she mentioned the killing of a person by cutting them in the sternum area. The medical records of the victim were also discussed. The parties have reached an agreement with regard to the said records and a stipulation will be read to the Jury by the Court. Stipulation marked as Court's Exhibit 14 and ADMITTED.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Juror No. 2 requested to address the Court regarding a procedural issue. The Juror presented his question to the Court and it was answered by the Court and counsel.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

5:30 p.m. Jury Trial concluded for the day. COURT ORDERED, trial CONTINUED.

CUSTODY

CONTINUED TO: 08/31/10 9:45 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 31, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

August 31, 2010 **9:45 AM** **Jury Trial**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

10:00 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: Court and counsel questions Juror No. 6 as to what she may have observed on the elevator when reporting to Court to resume the trial this morning. Court canvassed Deft. with regard to his right not to testify.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Jury Instructions and Verdict forms settled on the record.

JURY PRESENT: Court instructed the Jury. Closing arguments by Ms. Graham and Ms. Palm; rebuttal by Mr. Lalli.

OUTSIDE THE PRESENCE OF THE JURY: Ms. Palm orally moved the Court for a mistrial. Arguments by counsel. COURT ORDERED, Motion DENIED; the totality of the circumstances do not warrant a mistrial at this time.

JURY PRESENT: At the hour of 5:45 p.m., the Jury retired to deliberate; however, due to the lateness of the hour, the Jury elected to go home and return in the morning to begin deliberations. COURT

ORDERED, trial continued.

CUSTODY

CONTINUED TO: 09/01/10 9:00 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 01, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

September 01, 2010 **9:00 AM** **Jury Trial**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- 9:00 a.m. Jury returned to deliberate.

At the hour of 3:45 p.m. the Jury presented a note with a question to the Court. Court held a telephonic conference with Christopher Lalli, Chf Dep DA, and Patricia Palm, Esq., regarding the note. An answer was provided to the Jury. The Question and Answer provided was marked for identification as Court's Exhibit 16 and ADMITTED.

At the hour of 4:55 p.m. the Jury presented another note to the Court indicating that they were still deadlocked. The Court again held a telephonic conference with counsel regarding the note. Court and counsel agreed to release the Jury for the evening with the understanding that they would return at 9:00 a.m., September 2, 2010, to continue deliberations. Court noted there is a possibility of an Allen Charge being given after further deliberations. The Note was marked for identification as Court's Exhibit 17 and ADMITTED.

Court thanked and excused the alternates and ORDERED, trial CONTINUED.

CUSTODY

CONTINUED TO: 09/02/10 9:00 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 02, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

September 02, 2010 **9:00 AM** **Jury Trial**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- 9:30 a.m Jurors returned to continue deliberations.

At the hour of 10:15 p.m. the Jury presented a note to the Court indicating that they were still deadlocked. The Note was marked for identification as Court's Exhibit 18 and ADMITTED.

10:43 a.m. OUTSIDE THE PRESENCE OF THE JURY: Robert Daskas, Chf Dep DA, present on behalf of Christopher Lalli, Chf Dep DA, and Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Court advised counsel of the notes it had received from the Jury.

JURY PRESENT: Court gave an Allen Charge to the Jury. At the hour of 10:55 a.m. the Jury returned to the Jury room to continue their deliberations.

At the hour of 11:38 a.m. the Jury indicated that they were still deadlocked. The Note was marked for identification as Court's Exhibit 20 and ADMITTED.

JURY PRESENT: Stephanie Graham, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present. Court noted the Jury is deadlocked at 10 to 2. It is fruitless to continue deliberations at this time. Therefore, COURT FINDS, that due to the hopeless deadlock of the Jury, it is a manifest necessity to declare a MISTRIAL. Court thanked and

excused the Jury and ORDERED, matter set for status check; Deft. REMANDED to custody.

CUSTODY

09/14/10 8:15 AM STATUS CHECK: NEW TRIAL DATE

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 14, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

September 14, 2010 **8:15 AM** **Status Check** **New Trial Date**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is not present.

Motion to Withdraw FILED IN OPEN COURT. Conference at the Bench. Court directed the Court Clerk to contact Drew Christensen for appointment of counsel. Ms. Palm advised she has already been in contact with him; colloquy. COURT ORDERED, Motion to Withdraw GRANTED; Patricia Palm is APPOINTED as counsel of record on this case. COURT FURTHER ORDERED, matter set for status check. Court noted Ms. Palm has requested the trial transcripts.

CUSTODY

CONTINUED TO: 09/16/10 8:15 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 16, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

September 16, 2010 8:15 AM Status Check

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Melissa Benson

RECORDER: Cheryl Carpenter

REPORTER:

PARTIES PRESENT:

Lalli, Christopher J	Attorney
O'Keefe, Brian K	Defendant
Palm, Patricia A.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Upon inquiry, counsel noted today is only on to reset the trial. State did indicate Court had previously approved them to speak with Dr. Benjamin which they have not, but still reserve the right to do so. Colloquy regarding dates as Deft. did reserve his speedy trial rights. COURT ORDERED, trial RESET.

CUSTODY (NDC)

1/18/10 8:15 AM CALENDAR CALL

1/24/10 10:00 AM TRIAL BY JURY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 28, 2010**

08C250630 The State of Nevada vs Brian K O'Keefe

September 28, 2010 **8:15 AM** **Motion** **Notice of Motion and Motion by Defendant O'Keefe for a Reasonable Bail**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

For the reasons stated on the record, Ms. Palm is requesting that bail be set for Deft. in a reasonable amount. Argument by Mr. Lalli. Court noted that Deft. was denied his right to a speedy trial due to scheduling issues so there was good cause for the delay. However, due to the nature of this case, this Court will not grant Deft. an O.R. Release but will instead set bail. COURT ORDERED, Bail set in the amount of $500,000.00 with House Arrest (H.A.). If Deft. violates any portion of the H.A., he shall be immediately REMANDED until trial.

Mr. Lalli to prepare the Order.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **January 13, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

January 13, 2011 **8:15 AM** **Motion** **Notice of Motion and Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Improper Evidence and Argument**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Ms. Palm advised there are five different arguments.

1. State should be precluded from introducing evidence of argument to show that the alleged victim, Victoria Whitmarsh, testified against O'Keefe in the prior felony domestic battery case (C207835): Arguments by counsel. COURT ORDERED, Motion DENIED as to this issue.

2. Based upon the most recent and much expanded testimony of Cheryl Morris and argument relating thereto, this Court should reconsider its previous ruling and preclude or limit the testimony and argument: Arguments by counsel regarding this issue and more specifically, regarding the previous testimony that O'Keefe killed people, that O'Keefe was kicked out of the trailer, and that the victim slept behind a locked door. COURT ORDERED, with regard to the last two issues, they will be

excluded. All other issues are areas of impeachment.

3. The State should be precluded from introducing evidence of the costs related to the expert witnesses and improperly disparaging these experts: Arguments by counsel. COURT ORDERED, the Court will allow the testimony; however, counsel are to make sure the Jurors know there were prior hearing, which added to the experts' costs.

4. This Court should preclude the State from arguing or introducing evidence related to domestic violence syndromes, effects, or dynamics or the general cause of fighting against domestic violence: Arguments by counsel. COURT ORDERED, decision DEFERRED until the hearing on the other motions.

5. This Court should preclude the State from inquiring about O'Keefe's 2005 convictions for non-support of his children, as these do not qualify for admission under NRS 50.095: Ms. Palm advised that the State agrees with her on this issue, the convictions are inadmissible.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **January 18, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

January 18, 2011 **8:15 AM** **Calendar Call**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

State announced ready. Ms. Palm advised she could not announce ready at this time as she has some Motions pending. The Motion are set to be heard on January 20, 2011, and depending on the outcome, she may or may not be ready for trial; colloquy. COURT ORDERED, Calendar Call CONTINUED.

CUSTODY

CONTINUED TO: 01/20/11 8:15 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **January 20, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

January 20, 2011 **8:15 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, Elizabeth Mercer, Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Ms. Palm requested a continuance for the purpose of preparing a Writ. Arguments by counsel. COURT ORDERED, Request DENIED.

Notice of Motion and Motion by Deft. O'Keefe to Dismiss on Grounds of Double Jeopardy Bar and Speedy Trial Violation and, Alternatively, to Preclude State's New Expert Witness, Evidence, and Argument Relating to the Dynamics or Effects of Domestic Violence and Abuse: There are three (3) parts to this Motion . . .

1. Double Jeopardy Bars Must Apply to Prevent Retrial: Arguments by counsel. COURT ORDERED, Motion DENIED; the Court does not find any intentional misconduct on behalf of the State.

2 The State must be Precluded from Introducing New Evidence and Expert Witness Testimony which was not Previously Timely Noticed and which is Otherwise Inadmissible: Arguments by counsel. COURT FINDS, that as far as the timeliness of the notice, it was timely.

3. O'Keefe is Entitled to a Dismissal Based on the Violations of his Constitutional and Statutory Speedy Trial Rights: Arguments by counsel. COURT FINDS, no violation of Deft.'s speedy trial rights

in this case and, therefore, ORDERED, Motion DENIED.

State's Notice of Motion and Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to 48.061: Colloquy regarding a discovery issue. Arguments by counsel. COURT ORDERED, decision DEFERRED. Matter set for Petrocelli Hearing.

Calendar Call: COURT ORDERED, Trial date VACATED and RESET.

Court noted it DEFERRED ruling on Item No. 4 of Deft.'s Motion to Preclude the State from Introducing at Trial Improper Evidence and Argument , which was heard on January 13, 2011, No. 3 above, and the Motion in Limine.

CUSTODY

04/12/11 10:00 AM PETROCELLI HEARING

05/31/11 8:15 AM CALENDAR CALL

06/06/11 1:00 PM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **April 07, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

April 07, 2011 **8:15 AM** **Status Check**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Upon Court's inquiry regarding whether or not there were any impediments that would keep this case from proceeding to trial on June 6, 2011, other than a STAY by the Supreme Court. Mr. Lalli and Ms. Palm advised this all issues are resolved and they are ready to go.

Mr. Lalli advised there is a Petrocelli Hearing on April 12; he anticipates twelve (12) to fifteen (15) witnesses. Mr. Lalli is requesting, for purposes of the Petrocelli Hearing, that the Court accept an offer of proof in lieu of live testimony. Some of the witnesses live out of State and due to the State's economic situation, it makes more sense to have them present at the trial. Ms. Palm advised she was not prepared to argue this issue today; colloquy. If the witnesses are out-of-state, they do not need to appear at this time; however, if there is an offer of proof issue, those witnesses will be heard at a continued Petrocelli hearing.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **April 27, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

April 27, 2011 **9:30 AM** **Hearing** **Motion In Limine To Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 And Evidence of Domestic Violence Pursuant to 48.061**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Ms. Palm presented a Request for Transcripts for today's proceedings; the Order was SIGNED and FILED in open court.

9:51 a.m. Petrocelli Hearing commenced. Ms. Palm indicated there was an issue with an expert; colloquy. Court noted a hearing with regard to the expert shall be set in the near future.

Exclusionary Rule INVOKED; testimony and exhibits presented (see worksheets).

1:46 p.m. Hearing concluded. COURT ORDERED, Argument on the Bad Acts Motion shall be CONTINUED to May 11, 2011. The Court will also hear argument on Ms. Palms Motion for Expert at that date.

CUSTODY

CONTINUED TO: 05/11/11 9:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **May 11, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

May 11, 2011 **9:30 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- NOTICE OR MOTION AND MOTION IN LIMINE TO ADMIT EVIDENCE OF OTHER BAD ACTS PURSUANT TO NRS 48.045 AND EVIDENCE OF DOMESTIC VIOLENCE PURSUANT TO 48.061 . . . PETROCELLI HEARING . . . PALM'S MOTION TO WITHDRAW AS COUNSEL

Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Patricia Palm, Esq., present on behalf of Deft. O'Keefe, who is also present.

Ms. Palm advised there has been an irremediable breakdown in the attorney-client relationship and, therefore, she is seeking to withdraw as counsel of record; colloquy. Conference at the Bench. COURT ORDERED, Motion to Withdraw as Counsel GRANTED. Upon Court's inquiry, Deft. stated that he would like to contact his family to see if he can retain counsel. In the meantime, Court Clerk to contact Drew Christensen. COURT FURTHER ORDERED, matter set for status check.

The Bad Acts Motion and the Petrocelli Hearing will be re-scheduled after confirmation of Deft.'s new counsel. COURT ORDERED, trial dates VACATED.

CUSTODY

06/02/11 8:15 AM STATUS CHECK: CONFIRMATION OF COUNSEL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 02, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

June 02, 2011 **8:15 AM** **Status Check** **Confirmation of Counsel**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Liz Mercer, Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present.

Mr. Maningo CONFIRMED as counsel of record; he advised that he has not received the file from Ms. Palm yet but has spoke to her. Colloquy regarding a trial date. The file in this matter is voluminous; therefore, Mr. Maningo would like to quickly glance through the files and speak with Deft. before setting a trial date. COURT ORDERED, matter set for status check. COURT ORDERED, trial date VACATED.

CUSTODY

07/21/11 8:15 AM STATUS CHECK: RESET TRIAL DATE

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **July 21, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

July 21, 2011	**8:15 AM**	**Status Check**	**Status Check: File; Reset Trial Date; and Date for Petrocelli Hearing**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present.

This is the time set for the status check to reset the trial; Mr. Maningo advised he is prepared to set a trial date. Court noted the trial is expected to last a week and a half. COURT ORDERED, matter set for trial; this will be a FIRM setting.

Mr. Lalli advised a date also needs to be set for argument on the State's Motion for Bad Acts; colloquy. COURT ORDERED, matter set for hearing.

CUSTODY

09/23/11 10:00 AM STATE'S MOTION FOR BAD ACTS

06/05/12 8:15 AM CALENDAR CALL

06/11/12 1:00 PM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **October 13, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

October 13, 2011 **8:15 AM** **Motion** **Pro Se Motion to Dismiss Appointed Counsel and for Faretta Hearing**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Lance Maningo, present on behalf of Deft. O'Keefe, who is also present.

Court noted that Deft. is seeking to have Mr. Maningo removed from his case. Upon Court's inquiry, Deft. stated that he an Mr. Maningo have reached an agreement on two (2) issues that he feels are very relevant and important to his case; he would like Mr. Maningo to file a motion so the issues can be argued. Mr. Maningo's assistant has met with Deft. and advised something will be filed within the next two (2) weeks.

Mr. Maningo advised he and the Deft. have had some disagreements on how to defend the case. The parties have reached an agreement on how they are going to proceed. Deft. has agreed to WITHDRAW his motion. Therefore, COURT ORDERED, motion OFF CALENDAR.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **November 08, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

November 08, 2011 **8:15 AM** **Motion to Clarify** **Motion to Place on Calendar**

HEARD BY: Brennan, James **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Jennifer Amelburu, Esq., present on behalf of Deft. O'Keefe, who is also present.

Court noted that the Clark County Detention Center (CCDC) forwarded $175.00 to the Clark County Clerk. Ms. Amelburu advised there is no order on file with the Clark County Clerk for the return of fees; therefore, she has prepared one. There being no objection by the State, COURT ORDERED, Motion GRANTED; Order signed in open court.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **December 08, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

December 08, 2011 **8:15 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- DEFT.'S MOTION TO PLACE ON CALENDAR . . . DEFT.'S PRO PER MOTION TO WITHDRAW COUNSEL

Christopher Lalli, Chf Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present.

DEFT.'S MOTION TO PLACE ON CALENDAR: This Motion was filed by Mr. Maningo for the purpose of addressing Deft.'s Motion to Withdraw Counsel and Faretta Canvass. Court acknowledged said Motion.

DEFT.'S MOTION TO WITHDRAW COUNSEL: Court advised it reviewed Deft.'s Motion. Colloquy regarding the Motion and the reasons Deft. wishes to proceed pro se. Mr. Lalli advised that Deft. does have a right to represent himself and the State would request that the Court complete a Faretta canvass. COURT ORDERED, matter set for Faretta Canvass; motion CONTINUED. COURT FURTHER ORDERED, the Bad Acts Motion is VACATED and will be re-set after the Faretta Canvass.

CUSTODY

12/16/11 8:45 AM FARETTA CANVASS

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **December 16, 2011**

08C250630 The State of Nevada vs Brian K O'Keefe

December 16, 2011 **8:45 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- DEFT.'S MOTION TO WITHDRAW COUNSEL AND FARETTA CANVASS . . . FARETTA CANVASS

Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is also present.

Upon Court's inquiry, Deft. stated that he still wants to represent himself in this matter. Court conducted a Faretta Canvass and FINDS, Deft. competent to WAIVE his constitutional right to be represented by counsel. COURT FURTHER FINDS, that Deft. is WAIVING such right, freely, knowingly, and voluntarily. Colloquy regarding stand-by counsel and an investigator. COURT ORDERED, Deft.'s pro se Motion to Withdraw Counsel is GRANTED. Mr. Maningo shall be APPOINTED as STAND-BY COUNSEL; he advised Investigator, Craig Retke, has already been appointed and approved in this matter. Deft. indicated that he would like to keep Retke as his investigator.

Deft. requested the Court sign an Order for copies from inmate's account, which was presented to the Court for consideration; colloquy. Court directed Deft. to file the appropriate motion. Mr. Lalli

advised the hearing on the Bad Acts motion needs to be finished. The hearing was started back on April 27, 2011, and continued to May 11, 2011. On May 11, 2011, Patricia Palm, Esq., withdrew so the Motion now needs to be rescheduled. COURT ORDERED, motion set for hearing.

CUSTODY

02/17/12 8:45 AM CONTINUED HEARING: MOTION IN LIMINE TO PRESENT EVIDENCE OF OTHER BAD ACTS

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **February 17, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

February 17, 2012 **8:45 AM** **Hearing** **Motion in Limine to Present Evidence of Other Bad Acts (Filed 01/06/11)**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Liz Mercer, Dep DA, and Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se with stand-by counsel, Lance Maningo.

Court noted this is the continued hearing on State's Motion in Limine to present Evidence of Other Bad Acts. Argument by Ms. Mercer and Deft. COURT ORDERED, decision DEFERRED as the Court would like to review this matter further.

Deft. advised that he needs to have an investigator appointed; colloquy. Skye Campbell is present today to be appointed. There being no opposition by the State, COURT ORDERED, request GRANTED, Skye Campbell shall be appointed as the investigator in this case. Court directed Deft. to submit an Order.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 01, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

March 01, 2012 **8:15 AM** **Decision**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Lorna Shell

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to NRS 48.061 came before this Court on February 17, 2012. The Court deferred the matter, In accordance with NRS 48.045, evidence of other bad acts is only admissible where three requirements are met: (1) the incident is related to the crime charged; (2) the act is proven by clear and convincing evidence; and (3) the evidence is more probative than prejudicial. Cipriano v. State, 111 Nev. 534, 894 P.2d 347 (1995).

The COURT FINDS that the State established by clear and convincing evidence the facts and circumstances of the offense occurring on or about April 2, 2004, to which Defendant received a felony conviction in C207835.

The COURT FURTHER FINDS that the admission of facts and circumstances of the other cases (03M00410X, 03M25901X, 03M26791X, C581783A, and C202793) State requested would have a prejudicial effect which would outweigh the probative value.

Therefore, COURT ORDERED Motion in Limine to Admit Evidence of Other Bad Acts Pursuant to NRS 48.045 and Evidence of Domestic Violence Pursuant to NRS 48.061 is GRANTED IN PART and DENIED IN PART.

The State is directed to submit a proposed order consistent with the foregoing within ten (10) days

and distribute a filed copy to all parties involved pursuant to EDCR 5.90(e). Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CUSTODY

03/15/12 8:15 AM STATUS CHECK

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Chief Deputy D.A., Christopher Lalli and Deputy D.A., Liz Mercer.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 15, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

March 15, 2012 **8:15 AM** **Status Check** **Order (Decision 03/01/12)**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe present pro se.

Court noted that it received the Order Granting, in Part, the State's Motion to Admit Evidence of Other Bad Acts on March 12, 2012; it was filed on March 13, 2012.

MATTER RECALLED: Only Deft. is present. Court provided Deft. with a copy of the above-mentioned Order.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 29, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

March 29, 2012	**8:15 AM**	**Motion to Dismiss**	**Deft.'s Motion to Dismiss Based upon Violations**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se.

Deft. filed a Motion to Seal Records on March 22, 2012; hearing is set for April 10, 2012. Court noted there is a Receipt of Copy but it is unsigned and there is no Certificate of Mailing. Mr. Lalli advised that since the State is now aware of said Motion, he will file the appropriate response; he requested that he be given until April 5, 2012, to file a response. COURT SO ORDERED.

Further, Deft. advised he did not receive a filed stamped copy of the State's Opposition to his Motion to Dismiss Based upon Violations within the seven (7)-day time period specified in EDCR 3.20. Court noted the Motion to Dismiss was filed on March 16, 2012, and the Opposition was filed by the State on March 21, 2012. Argument by Deft. Mr. Lalli submitted the matter on his Opposition. COURT FINDS, there is no issue of double jeopardy in this particular matter and the State is not precluded from introducing bad-act evidence under NRS 48.045. The Nevada Supreme Court reversal does not preclude a retrial. Therefore, COURT ORDERED, motion DENIED.

State to prepare the Order.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **April 10, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

April 10, 2012 **8:15 AM** **Motion** **Deft.'s Motion to Seal Records**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe present pro se.

This is the time set for hearing on Deft.'s Motion to Seal Records. Court noted it was just handed a copy of the State's Opposition, which it has not had an opportunity to review.

Mr. Lalli advised that Deft. has also filed a Motion to Admit Evidence of Polygraph Examination it is set for hearing on April 12; he wants the examination to be admitted during the upcoming trial. Mr. Lalli advised that he cannot take a position on this issue until he is able to review the examination, which he just received. During the examination Deft. made a couple of statements which need further investigation. Mr. Lalli would like some of the supporting documentation and would also like to speak with Deft.'s former counsel, Randall Pike, Asst. SPD, regarding the examination. However, Deft. would need to WAIVE the attorney-client privilege.

Deft. makes statements regarding the Polygraph Examination; he stated there was also a video. Mr. Lalli requested a copy of same.

Court advised it needs additional time to review the State's Opposition to the Motion to Seal. Therefore, COURT ORDERED, Motion to Seal Records CONTINUED; the hearing date (April 12, 2012) on the Motion to Admit Evidence of Polygraph is VACATED and the Motion shall be set for a

status check. Deft. shall file a supplement to his Motion to Seal by April 17, 2012; Court directed him to specifically address NRS 179.245(4). State may then supplement its Opposition. COURT FURTHER ORDERED, Deft. to provide a release to his Investigator so the video of the polygraph can be provided to Mr. Lalli.

Upon Court inquiry as to whether or not Deft. would waive the attorney-client privilege, Deft. stated he was not prepared to make a decision on that issue at this time. Court urged Deft. to consult with stand-by counsel, Lance Maningo, regarding the above-named motions before making a decision.

CUSTODY

CONTINUED TO: 04/26/12 8:15 AM

04/26/12 8:15 AM STATUS CHECK: MOTION TO ADMIT EVIDENCE OF POLYGRAPH

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **April 17, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

April 17, 2012 **8:15 AM** **Motion** **Deft.'s Motion for Complete Rough Draft Transcript**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe present pro se.

This is the time set for hearing on Deft.'s Motion for Complete Rough Transcript. Court noted Deft. is requesting a transcript of the March 29, 2012, hearing. Mr. Lalli advised the State does not oppose said Motion. COURT ORDERED, moton GRANTED; Deft. to prepare an Order.

Court noted it was provided an Order from the Nineth Circuit Court of Appeals; the signature page is missing. Deft. stated that on the last page of the Order, which the Court does not have, the Attorney General's office has been contacted, a briefing schedule has been set, and if he so choses, a Federal attorney will be appointed for him. Colloquy regarding same. Mr. Lalli advised that he does not believe the Order pertains to the instant case. Deft. has another case with a Feberal Writ of Habeas Corpus on an underlying conviction.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **April 26, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

April 26, 2012 **8:15 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- DEFT.'S MOTION TO SEAL RECORDS . . . DEFT.'S MOTION TO ADMIT EVIDENCE OF POLYGRAPH EXAMINATION

Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se.

MOTION TO SEAL RECORDS: Deft. advised that he is seeking to seal his dismissed and acquitted cases; argument. Mr. Lalli advised that he wanted to correct some things in Deft.'s motion; Deft. represented that C202793 was dismissed but he was found guilty, in 03M00410X Deft. represented that it was dismissed but he pled guilty to one of the Counts, and in 03M26791X the case was dismissed pursuant to negations. Argument by Mr. Lalli; based on the Cavaricci case, Mr. Lalli believes it would be an abuse of discretion for the District Court to seal the records of an individual who has an active current criminal record. COURT ORDERED, motion DENIED. State to prepare the Order.

Court noted that an Order from the Ninth Circuit Court of Appeals, dated April 13, 2012, was provided to it last date. Colloquy regarding said Order and whether or not Deft. believes said Order STAYS the instant case. Mr. Lalli advised the Order is from a Pre-Trial Habeas Petition in Federal Court, which challenges the instant case and may be considered a collateral attack. Therefore, the instant case would not be STAYED.

MOTION TO ADMIT EVIDENCE OF POLYGRAPH EXAMINATION: Court noted that Polygraph Examinations are typically not admitted into evidence because there is a dispute as to the reliability of said examinations and, therefore, this Court does not think the admission of such an examination would not be appropriate. Further, the Court believes that entering said examination results would adversely affect Deft.'s constitutional rights for a fair trial in this case. COURT ORDERED, motion DENIED.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **May 29, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

May 29, 2012 **8:15 AM** **Request** **Status Check: Trial Readiness**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Deft. O'Keefe, present pro se.

Mr. Lalli advised he had this matter placed on calendar because the trial is less than two (2) weeks away and he would like to obtain some assurance from Deft. that he will be ready for trial. The State is ready to go. Mr. Lalli has another case that is also set for the same day, but his preference is to go ahead with this one.

Upon Court's inquiry as to whether Deft. was ready to proceed to trial, Deft. stated some important mail from the Ninth Circuit has been lost; colloquy. Court advised barring any unforeseen circumstances, this case will proceed to trial as scheduled.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 05, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

June 05, 2012 **8:15 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- CALENDAR CALL . . . DEFT.'S MOTION TO CONTINUE TRIAL

Christopher Lalli, Chf Def. DA, present on behalf of the State and Deft. O'Keefe present pro se.

Also present: Lance Maningo, Esq., Deft.'s stand-by counsel and Ryan Norwood, Asst Fed PD.

Upon Court's inquiry as to whether or not the parties were ready for trial, Mr. Lalli advised the State is ready. However, Deft. stated that he is claiming a Federal violation of his Constitutional Rights and has an open case in the Ninth Circuit Court of Appeals and would like the instant case STAYED until the conclusion of his Federal case. Further, Deft. is not totally prepared for trial at this time because he devoted much of his time to his Federal case; therefore, Deft. orally moved for a continuance of the trial. Colloquy regarding same. Statement by Mr. Maningo; he advised he has nothing to add only that Mr. Norwood is present today to inform the Court about what is going on in Deft.'s Federal case.

Mr. Lalli advised that he had this matter placed on calendar last week to inform Deft. and the Court that he had two trials set for the same day and that if Deft. was ready to proceed to trial in the instant case, Mr. Lalli would have his other trial continued. Deft. stated that he was ready and the Court advised that absent a STAY from the Ninth Circuit, this matter would be proceeding to trial. The State has been meeting with witnesses and subpoenas have been served. Therefore, the State is opposed to a continuance at this time for the reasons stated on the record. Statements by Mr.

Norwood and colloquy about the case before the Ninth Circuit.

COURT ORDERED, Deft.'s oral motion to continue the trial is DENIED. If the Ninth Circuit issues a stay on or before Friday, June 8, 2012, this case will be stayed. If not, the matter will proceed to trial on Monday, June 11, 2012, at 9:30 a.m.

With regard to the Motion to Continue Trial filed by Mr. Maningo, which was set for June 19, 2012, the Court advised it reviewed said Motion. There being no good cause to continue the trial, COURT ORDERED, Motion ADVANCED and DENIED.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 11, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

June 11, 2012 **9:30 AM** **Jury Trial**

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

10:00 a.m. Trial commenced. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Argument by Mr. Lalli regarding Judge Villani's ruling on the State's Bad Acts Motion. Deft. requested the Court take Judicial Notice of certain documents, which were marked for identification as Court's Exhibit No. 2 and ADMITTED. Argument by Deft. with regard to the Bad Acts; he orally moved the Court for a dismissal for the reasons stated on the record. COURT ORDERED, Motion DENIED. Deft. then requested that all objections be Federalized; colloquy. COURT FURTHER ORDERED, request DENIED.

10:27 a.m. the PROSPECTIVE JURORS PRESENT: Court and Deft. begin Voir Dire examination of the prospective Jurors.

Court received a note from Prospective Juror 079, he is ill. COURT ORDERED, this Prospective Juror is RELEASED; the note was marked for identification as Court's Exhibit No. 1 and ADMITTED.

5:14 a.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 06/12/12 9:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 12, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

June 12, 2012 **9:30 AM** **Jury Trial**

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

10:02 a.m. Jury Trial resumed. PROSPECTIVE JURORS PRESENT: Court and Deft. continued Voir Dire examination of the Prospective Jurors.

Jury and two (2) alternates selected and sworn. Clerk read the Second Amended Information to the Jury and stated the Deft.'s plea thereto.

OUTSIDE THE PRESENCE OF THE JURY: Deft. stated for the record that he believes that proceeding to trial at this time constitutes a true double jeopardy violation and is also in violation of the laws and treaties of the United States of America on double jeopardy, due process, and collateral estoppel is implied. Court noted for the record Deft.'s continuing objection with regard to the above.

Deft. further objected to the battery domestic violence evidence and testimony. Court again noted for the record Deft.'s continuing objection with regard to this issue as well.

JURY PRESENT: Opening Statements by Mr. Lalli and Deft. Exclusionary Rule INVOKED. Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Court canvassed Deft. with regard to his right not to testify.

5:00 a.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 06/13/12 9:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 13, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

June 13, 2012 **9:30 AM** **Jury Trial**

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

9:50 a.m. Jury Trial resumed. Testimony and exhibits presented (see worksheets).

4:03 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 06/14/12 9:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 14, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

June 14, 2012 **9:30 AM** **Jury Trial**

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

10:04 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: The State is requesting that a Stipulation pertaining to the excerpts from the medical records of the victim, that was read to the Jury at the previous trial and remarked for identification as Court's Exhibit No. 9, be read to this Jury. Deft. has his own version of the Stipulation that he would like read to the Jury and also requested that it be marked as a Defense Exhibit so the Jury can take it back to the Jury room with them; it is marked for identification as Court's Exhibit No. 6. The parties cannot agree on which one should be read; Mr. Lalli objects to it being admitted as a Defense Exhibit. Arguments by Mr. Lalli and Deft. COURT ORDERED decision DEFERRED.

Deft. would like to play a 911 call, he presented the disc to the Court and it was marked for identification as Court's Exhibit No 7. Mr. Lalli advised he has a 911 call from a witness they could not locate, State's Exhibit No. 129. will not be played because he cannot lay the proper foundation. It was played at the first trial so he will play it if there is a Stipulation; however, with regard to Court's Exhibit No. 7, the person who made the call was not called as a witness so it is hearsay and, therefore, cannot be played. Arguments by Mr. Lalli and Deft. COURT ORDERED, neither of the above-mentioned 911 calls will be played for the Jury as there is no foundation.

10:21 a.m. the JURY is PRESENT. Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: The Court received a note from Juror No. 12. The note was marked for identification as Court's Exhibit No. 8. Juror No. 12 was questioned outside the presence of the Jury. COURT ORDERED, this Juror shall remain.

Further discussion about the Stipulation; Court advised he could either read it to the Jury or it can be admitted as a Defense Exhibit but it cannot do both. Deft. agreed to have it read to the Jury at the appropriate time.

JURY PRESENT: Testimony and exhibits presented (see worksheets). Stipulation read to the Jury.

2:30 p.m. Jury dismissed for the day. OUTSIDE THE PRESENCE OF THE JURY: Deft. orally moved for a directed verdict. Arguments by Mr. Lalli and Deft. COURT ORDERED, motion DENIED. Jury Instructions and Verdict form settled on the record.

3:36 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 06/15/12 9:00 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 15, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

June 15, 2012 **9:00 AM** **Jury Trial**

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Liz Mercer, Dep DA, present on behalf of the State; Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

9:15 a.m. Jury Trial resumed. JURY PRESENT: Court instructed the Jury. Closing arguments by Ms. Mercer and Deft.; rebuttal by Mr. Lalli.

At the hour of 11:09 a.m., the Jury retired to deliberate. Court thanked and excused the alternates.

At the hour of 1:58 p.m., the Jury RETURNED. Ms. Mercer, Deft, and Mr. Maningo are present. The verdict is as follows: GUILTY of MURDER of the SECOND DEGREE with USE OF A DEADLY WEAPON (F). Court thanked and excused the Jury. COURT ORDERED, matter set for sentencing.

2:05 p.m. Court ADJOURNED.

CUSTODY

08/16/12 8:15 AM SENTENCING

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 16, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

August 16, 2012 **8:15 AM** **Sentencing**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. O'Keefe, present pro se and Lance Maningo, Esq., present as stand-by counsel.

Upon Court's inquiry, Deft. stated he just received a copy of the Presentence Investigation (PSI) report this morning and has not had a opportunity to review it; further, he has some questions about the PSI and would like to talk with Mr. Maningo. Therefore, he requested that the matter be continued. Mr. Lalli has no objection to the continuance. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 08/28/12 8:15 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 28, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

August 28, 2012 **8:15 AM** **Sentencing**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Deft. O'Keefe present pro se with stand-by counsel, Lance Maningo.

Pursuant to the Jury's verdict, DEFT. ADJUDGED GUILTY OF MURDER OF THE SECOND DECREE WITH USE OF A DEADLY WEAPON (F). Mr. Lalli provided some pictures to the Court of the victim; the pictures were marked for identification as State's Exhibit 1 and ADMITTED. Arguments by Mr. Lalli and Deft. COURT ORDERED, in addition to the $25.00 Administrative Assessment fee, WAIVED if already paid, and the $150.00 DNA Analysis fee including testing to determine genetic markers, WAIVED if already paid, Deft. SENTENCED to a MAXIMUM of THREE (300) MONTHS and a MINIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE term of a MAXIMUM of TWENTY (20) YEARS and a MINIMUM of EIGHT (8) YEARS for use of a deadly weapon, with ONE THOUSAND THREE HUNDRED NINETY-FOUR (1,394) DAYS credit for time served.

Colloquy regarding a possible appeal and the appointing of Mr. Maningo as appellate counsel. Mr. Maningo advised he would like to speak to Deft. regarding the basis for his appeal before he accepts the appointment. COURT ORDERED, matter set for status check; BOND, if any, EXONERATED.

NDC (CUSTODY)

09/06/12 8:15 STATUS CHECK: APPOINTMENT OF APPELLATE COUNSEL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 06, 2012**

08C250630 The State of Nevada vs Brian K O'Keefe

September 06, 2012 **8:15 AM** **Status Check** **Appointment of Appellate Counsel**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Colleen Brown, Dep DA, present on behalf of the State and Lance Maningo, Esq., present on behalf of Deft. O'Keefe, who is not present.

Mr. Maningo advised that Deft.'s presence was WAIVED for today last court date; he has received the transcripts for this matter and can CONFIRM as Appellate Counsel. COURT ORDERED, Mr. Maningo is APPOINTED as Appellate Counsel for Deft.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **January 07, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

January 07, 2014 **8:15 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- DEFT.'S PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORAM NOBIS . . . DEFT.'S MOTION TO WAIVE FILING FEES FOR PETITION FOR WRIT OF MANDAMUS . . . DEFT.'S MOTION TO APPOINT COUNSEL

Gwynneth Smith, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

Court noted the Deft. filed the above-named pleadings, pro se. The allegations complained of in Deft.'s Petition relate to C202793; therefore, the Petition and the Motions were filed under the wrong case number and Deft. will need to re-file said pleadings in Department XXIII so they may be heard before the appropriate Judge. COURT ORDERED, Petition and Motions DENIED, without prejudice.

NDC

CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89070-0650.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **February 04, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

February 04, 2014 **8:15 AM** **Motion** **Ex-Parte Motion for Production of Documents, (Specific) Papers, Pleadings, and Tangible Property of Deft.**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Gwynneth Smith, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

This is the time set for hearing on the Deft.'s Ex-Parte Motion for Production of Documents, (Specific) Papers, Pleading, and Tangible Property, which he filed pro se.

Within Deft.'s pleading he is requesting various documents; COURT ORDERED, Motion GRANTED as it pertains to Deft.'s general request for the documents in counsel's file. However, Deft.'s list of specific requests is DENIED, without prejudice, as he has not set forth the precise reason as to why he needs said documents.

NDC

CLERK'S NOTE: A copy of this minute order e-mailed to Lance Maningo, Esq. and mailed to Brian

O'Keefe #90244, High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89018.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **February 11, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

February 11, 2014 **8:15 AM** **Motion** **Deft.'s Ex-Parte Motion for Reimbursement of Incidental Costs Declaring Defendant Indigent and Granting Forma Pauperis**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Emily Montgomery, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the time set for hearing on Deft.'s E-Parte Motion for Reimbursement of Incidental Costs Declaring Deft. Indigent and Granting Forma Pauperis, which he filed pro se. COURT ORDERED, Motion DENIED.

Court noted that the Court minutes do not reflect any promise by this Court, or anyone else, to reimburse the Deft. for his costs; NRS 12.015(2)(a) does not allow for reimbursement of copy expenses but only court fees.

State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is submitted prior to the status check date, it will be VACATED.

NDC

03/06/14 8:15 AM STATUS CHECK: ORDER (02/11/14)

CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89018.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **February 27, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

February 27, 2014 **8:15 AM** **Motion**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carole D'Aloia

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

Beverly, Leah C	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court noted the absence of the Defendant as he is currently in the Nevada Department of Corrections (NDC). Court advised it is not hearing oral argument on this motion, noting it reviewed all pleadings. COURT ORDERED, procedural history as set forth by the State ADOPTED. Court finds Defendant is not entitled to a modification of sentence as the sentence imposed was not an illegal sentence and, ORDERED, motion DENIED; State to prepare and submit Order, and matter set for STATUS CHECK.

NDC

3/20/14 8:15 AM STATUS CHECK: ORDER OF 2/27/14

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 06, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

March 06, 2014 **8:15 AM** **Status Check** **Order (02/11/14)**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Tyler Smith, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

This is the time set for the Status Check on the Order from the February 11, 2014, hearing. Court noted the Order was filed on February 28, 2014, and ORDERED, matter OFF CALENDAR.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 18, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

March 18, 2014 **8:15 AM** **Motion** **Deft.'s Motion for Judicial Notice - The State's Failure to File and Serve Response in Opposition**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Charles Thoman, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

This is the time set for hearing on Deft.'s Motion for Judicial Notice - the State's Failure to File and Serve Response in Opposition. The Court noted that the Deft. is incorrect, the State did file an opposition to his previous motion. The Opposition was filed on February 24, 2014, and the hearing was held on February 27, 2014. Therefore, COURT ORDERED, Deft.'s Motion is DENIED as MOOT.

State to prepare the Order; COURT FURTHER ORDERED, matter set for Status Check. If the Order is submitted prior to the status check date, it will be VACATED.

NDC

04/03/14 8:15 AM STATUS CHECK: ORDER (03/18/14)

CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, High Desert State

Prison, P.O. Box 650, Indian Springs, Nevada 89018.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 20, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

March 20, 2014 **8:15 AM** **Status Check** **Order (02/27/14)**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Charles Thoman, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the time set for the Status Check regarding the Order from the February 27, 2014, hearing. Court noted that the Order was filed on March 11, 2014, and, therefore, ORDERED, matter OFF CALENDAR.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **April 03, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

April 03, 2014 **8:15 AM** **Status Check** **Order (03/18/14)**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Giancarlo Pesci, Chf Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the time set for the Status Check on the Order from March 18, 2014. Court noted the Order was filed on March 26, 2014, and, therefore, ORDERED, matter OFF CALENDAR.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 14, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

August 14, 2014	**8:15 AM**	**Motion for Relief**	**Deft.'s Motion for Relief from Judgment Based on Lack of Jurisdiction for U.S. Court of Appeals had not Issued Any Remand, Mandate, or Remittitur**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Charles Thoman, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the time set for hearing on Deft.'s Motion for Relief from Judgment based on Lack of Jurisdiction for U.S. Court of Appeals had not Issued any Remand, Mandate, or Remittitur, which he filed pro se.

Court will hear no oral argument, it will base its decision on the pleadings submitted by the parties. The Deft. is alleging that his case was on appeal with the Federal Court when this Court went forward with his trial in District Court. Deft. had filed a Motion to Stay the State Court proceedings; however, said Motion was DENIED on May 9, 2012. The Deft. renewed said Motion and the Motion was again DENIED by the Federal Court on June 5, 2012. Since there was no STAY in place in the instant case, this Court proceeded with trial on June 11, 2012. Therefore, COURT ORDERED, Motion

DENIED.

State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is filed prior to the next court date, the status check will be VACATED.

NDC

09/04/14 8:15 AM STATUS CHECK: Order (09/04/14)

CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 89419.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 04, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

September 04, 2014 **8:15 AM** **Status Check** **Order (08/14/14)**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Hamner, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the time set for Status Check on the Order from the August 14, 2014, hearing. Court noted that the Order has been submitted for this Court's signature and ORDERED, matter OFF CALENDAR.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 18, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

September 18, 2014 **8:15 AM** **Motion** **Ex Parte Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit 3:14- CV-00385-RCJ-WGC Against Judge Michael Villani for Proceeding in Clear " Want of Jurisdiction" Thereby Losing Immunity, Absolutely**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- - Christopher Hamner, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

This is the time set for hearing on Deft.'s Ex Parte Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit 3:14- EV-00385-RCJ-WGC Against Judge Michael Villani for Proceeding in Clear "Want of Jurisdiction" Thereby Losing Immunity, Absolutely. Court noted the Deft. alleged that he has filed a new lawsuit against this Judge as well as some other people in the courthouse. Therefore, COURT ORDERED, matter REFERRED to Judge Togliatti for review. Court

noted Deft. has another motion set for hearing on this Court's calendar for September 23, 2014; that motion will also be set on Judge Togliatti's calendar the same day as the instant motion.

NDC

10/03/14 9:00 EX-PARTE MOTION TO CHIEF JUDGE TO REASSIGN CASE/MOTION FOR LEAVE OF COURT TO FILE MOTION FOR REHEARING

CLERK S NOTE: A copy of this minute order was mailed to Brian O'Keefe, #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 894193.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 23, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

September 23, 2014 8:15 AM Minute Order

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Defendant's Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit and Defendant's Motion For Leave of Court to File Motion For Rehearing came before this Court on the September 18, 2014, Oral Calendar. This Court referred the Motions to Judge Jennifer Togliatti, Chief Judge, for determination. Now, Defendant has filed a Petition for Writ of Habeas Corpus. Pursuant to NRS 1.235(5), this Department cannot proceed on the Defendant's Petition until Judge Togliatti has ruled on Defendant's Motion to Reassign. Therefore, COURT ORDERED, Defendant's Petition for Writ of Habeas Corpus and any other motions set in Department XVII shall be STAYED until Judge Togliatti makes a determination on Defendant's Motion to Reassign the case. A status check will be set on October 16, 2014.

10/16/14 8:15 AM STATUS CHECK: STAY

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of the District Attorney and mailed to Brian O'Keefe, #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 894193.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **October 03, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

October 03, 2014 **9:00 AM** **Motion**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Matter taken OFF CALENDAR before Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **October 16, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

October 16, 2014 **8:15 AM** **Status Check** **Stay**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Nicole Cannizzaro, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and is not present.

This is the set for the Status Check on the Stay. Court noted that the Deft. previously filed a Motion requesting that this Court be recused from his case. Chief Judge Togliatti reviewed this matter and DENIED the Deft.'s request. Therefore, this case will remain in Department XVII. COURT ORDERED, all Deft.'s pending motions shall be set for hearing on November 6, 2014.

NDC

11/06/14 8:15 AM ALL PENDING MOTIONS

CLERK'S NOTE: A copy of this minute order was mailed to Brian O'Keefe, #90244, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 894193.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **November 06, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

November 06, 2014 **8:15 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- AMENDED PETITION FOR WRIT OF HABEAS CORPUS . . . STATE'S RESPONSE AND MOTION TO DISMISS DEFT.'S PETITION FOR WRIT OF HABEAS CORPUS

Hilary Heap, Dep DA, present on behalf of the State; Deft. O'Keefe is incarcerated in the Nevada Department of Corrections (NDC) and not present.

Court noted that Deft. has filed various motions but this is the Deft.'s first habeas petition. It is this Court's policy to appoint counsel on all first petitions. Therefore, COURT ORDERED, counsel shall be appointed for the Deft. This Court's staff will contact the Office of Appointed Counsel. COURT FURTHER ORDERED, matter set for status check.

NDC

11/20/14 8:15 AM STATUS CHECK: CONFIRMATION OF COUNSEL

CLERK'S NOTE: Court Clerk telephonically contacted Drew Christensen regarding the above.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **November 20, 2014**

08C250630 The State of Nevada vs Brian K O'Keefe

November 20, 2014 **8:15 AM** **Status Check** **Confirmation of Counsel**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Hilary Heap, Dep DA, present on behalf of the State and Matthew Carling, Esq., present on behalf of Deft. O'Keefe, who is not present; he is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for the Status Check on Confirmation of Counsel. Mr. Carling advised that he could CONFIRM as counsel of record and requested thirty (30) days to obtain the file and review it. COURT ORDERED, matter set for status check.

NDC

01/08/15 8:15 AM STATUS CHECK: FILE/SET BRIEFING SCHEDULE

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **January 08, 2015**

08C250630 The State of Nevada vs Brian K O'Keefe

January 08, 2015 **8:15 AM** **Status Check** **File/Set Briefing Schedule**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Caroline Bateman, Dep DA, present on behalf of the State and Alissa Engler, Esq., appearing on behalf of Matthew Carling, Esq., for Deft. O'Keefe, who is not present. Deft. is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for the Status Check on the file; a briefing schedule needs to be set.

Ms. Engler advised that Mr. Carling has received the file and is requesting ninety (90) days to file his supplemental petition. The Court set the following briefing schedule:
04/07/15 - Supplemental Petition
06/08/15 - State's Response

COURT ORDERED, matter set for hearing.

NDC

07/10/15 9:30 AM HEARING: PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 30, 2015**

08C250630 The State of Nevada vs Brian K O'Keefe

June 30, 2015	**8:30 AM**	**Motion to Withdraw as Counsel**	**Deft.'s Motion to Withdraw Counsel for Conflict and Failure to Present Claims ...**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Erika Wiborg, Dep DA, present on behalf of the State; neither Deft. O'Keefe nor his counsel, Matthew Carling, are present. Deft. is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for hearing on Deft.'s Motion to Withdraw Counsel for Conflict, which the Deft. filed pro se. The Court did not receive an unequivocal statement from the Deft. as to whether or not he wishes to represent himself in this matter. The Court, however, is not going to appoint another attorney just because the Deft. does not like Mr. Carling. Although Mr. Carling could not be present today, he filed an Affidavit on July 29, 2015, stating his position on Deft.'s Motion. In said Affidavit, Mr. Carling advised that he been working on this case and can work with the Deft. Therefore, COURT ORDERED, Deft.'s Motion is DENIED, without prejudice.

State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is submitted prior to status check date, it will be VACATED.

NDC

07/30/15 8:30 AM STATUS CHECK: ORDER (06/30/15)

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **July 10, 2015**

08C250630 The State of Nevada vs Brian K O'Keefe

July 10, 2015 **9:30 AM** **All Pending Motions**

HEARD BY: Hardcastle, Kathy **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Andrea Natali

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES PRESENT:

Carling, Matthew D.	Attorney
State of Nevada	Plaintiff
Villani, Jacob J.	Attorney

JOURNAL ENTRIES

- DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) ..... DEFENDANT'S PRO PER MOTION FOR LEAVE TO FILE SUPPLEMENTAL PETITION ADDRESSING ALL CLAIMS IN THE FIRST INSTANCE REQURIED BY STATUTE FOR JUDICIAL ECONOMY WITH AFFIDAVIT

Deft. not present. COURT ORDERED, motion for leave to file supplemental petition DENIED as a fugitive document; NOTED Deft. was represented by counsel. Mr. Carling noted in his pleading he didn't address the State's response regarding the time bar; additionally, as to Mr. Maningo, who was prior trial counsel, the State may need time to respond thereto. Mr. Carling provided a timeline for the Court's review. Colloquy regarding the date the remittitur was referenced as being filed and the date the petition was filed. Mr. Villani requested 30 days to respond. Mr. Carling requested 2 weeks to reply. COURT ORDERED, matter CONTINUED; State's supplement due 8/10/15 and Defense reply due 8/24/15.

NDC

CONTINUED TO: 9/4/15 9:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **July 16, 2015**

08C250630 The State of Nevada vs Brian K O'Keefe

July 16, 2015	**8:30 AM**	**Motion**	**Deft.'s Ex-Parte Motion to Extend Prison Copywork Limit**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Nicole Cannizzaro, Dep DA, present on behalf of the State; neither Deft. O'Keefe or his counsel, Matthew Carling, are present.

This is the time set for hearing on Deft.'s Ex-Parte Motion to Extend Prison Copywork Limit, which he filed pro se. Court noted that Mr. Carling is not able to be present today and has requested this matter be continued. COURT SO ORDERED.

NDC

CONTINUED TO: 07/30/15 8:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **July 30, 2015**

08C250630 The State of Nevada vs Brian K O'Keefe

July 30, 2015 **8:30 AM** **Motion** **Deft.'s Motion to Extend Prison Copywork Limit**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Nicole Cannizzaro, Dep DA, present on behalf of the State and Alissa Engler, Esq., appearing on behalf of Matthew Carling, Esq., for Deft. O'Keefe, who is not present; he is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for hearing on Deft.'s Motion to Extend Prison Copywork Limit. Court noted that the Deft. is represented by Mr. Carling; Ms. Engler advised that Mr. Carling has no representations to make; he did not receive a copy of Deft.'s ex-parte motion.

Court represented that since the Deft. is dealing with the prison system, there are rules and regulations he must follow. This is an issue for the Attorney General's office; therefore, his motion should have been sent to them. Additionally, Deft. has counsel. Therefore, COURT ORDERED, Motion DENIED, without prejudice. If Mr. Carling believes the Motion has merit, he can refile it with the Court.

State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is filed prior to the status check date, it will be VACATED.

NDC

08/27/15 8:30 AM STATUS CHECK: ORDER (07/30/15)

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 04, 2015**

08C250630 The State of Nevada vs Brian K O'Keefe

September 04, 2015 **9:30 AM** **Hearing** **Deft.'s Petition for Writ of Habeas Corpus (Post-Conviction)**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Asst DA, present on behalf of the State and Matthew Carling, Esq., present on behalf of Deft. O'Keefe, who is not present. Deft. is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for hearing on Deft.'s Petition for Writ of Habeas Corpus (Post-Conviction). Court noted there is a disagreement as to when the Remittitur issued; the Defense claims it was issued on June 24, 2014, and the State claims it was issued on July 23, 2013. The Court pulled the Remittitur and it is dated July 23, 2013, and was issued on July 26, 2013; Supreme Court No. 61631.

Mr. Carling advised that the Deft. moved to STAY the Remittitur in this case. With regard to the appeal, Deft. had Appellate counsel and he was trying to fire him but could not so he tried to do things on his own while he still had counsel of record but his requests were denied by the Supreme Court. Therefore, if the Court finds that Deft.'s Petition was not timely filed, Mr. Carling believes there is good cause. Additionally, Mr. Carling represented that the State's Response was just on the time-bar issue, it did not address any of the merits so Mr. Carling filed a Reply specifically addressing that. This matter has been well briefed, so Mr. Carling will submit the matter.

The Court adopts the procedural history set forth by the State. The Notice of Remittitur was issued in July 2013 and Deft.'s Petition was filed in September 2014; therefore, COURT FINDS, the Deft. is time bared, pursuant to NRS 34.726, and good cause has not been shown. COURT ORDERED, Deft.'s Petition for Writ of Habeas Corpus is DENIED. Additionally, Deft.'s request for an Evidentiary Hearing is also DENIED because there is a jurisdictional bar on this particular matter.

Mr. Lalli to prepare the appropriate Order approved as to form and content by Mr. Carling.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **October 20, 2015**

08C250630 The State of Nevada vs Brian K O'Keefe

October 20, 2015	**8:30 AM**	**Motion to Withdraw as Counsel**	**Matthew D. Carling's Motion to Withdraw as Attorney of Record for Deft.**

HEARD BY: Bixler, James **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Michelle Sudano, Dep DA, present on behalf of the State and Matthew Carling, Esq., present on behalf of Deft. O'Keefe, who is not present. Deft. is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for the hearing on Matthew D. Carling's Motion to Withdraw as Attorney of Record for Deft. Upon Court's inquiry as to whether the Deft. was opposed to Mr. Carling's withdrawal, Mr. Carling advised that he contacted the Deft. but he has not responded; his only concern is that the Notice of Appeal has not been filed and it tolls this week. Mr. Carling has everything ready but he needs to hear from the Deft.; colloquy. COURT ORDERED, Motion DENIED; the Court directed Mr. Carling to file the appeal and then he can withdraw at the Supreme Court level.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 22, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

June 22, 2017 **8:30 AM** **Motion**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Graham, Elana L.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court noted Defendant was in the Nevada Department of Corrections. COURT ADOPTED the Procedural History as set forth by the State. Court stated the petition was time barred pursuant to NRS 34.726 and successive under NRS 34.810. Court further stated Defendant had not shown good cause to get over the time barred nor the successive petition issue. Court stated Defendant's request to have the petition transferred was meritless and did not cite any authority. Court noted Defendant alleged the Court has some favoritism or antagonism toward him, that's without any bases therefore, COURT ORDERED, Motion DENIED; State to prepare the Order. COURT FURTHER ORDERED, Status Check SET for filing of the Order.

NDC

07/20/17 8:30 AM STATUS CHECK: FILING OF ORDER

CLERK'S NOTE: The above minute order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419 //ob/06/23/17

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **June 27, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

June 27, 2017 **8:30 AM** **Petition for Writ of Habeas Corpus**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Holthus, Mary Kay	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court noted it was basing its decision on the pleadings on file and not taking oral argument. COURT ADOPTED the Procedural History as set forth by the State. Court stated the petition was time barred pursuant to NRS 34.726 and successive under NRS 34.810. Court further stated Defendant had not shown good cause to get over the time barred nor the successive nature of this petition. Court stated Defendant's petition was meritless as if failed to cite any authority regarding the switching on judicial officers. Court noted Defendant alleged the Court has some favoritism or antagonism toward him. Court stated all rulings have been based upon the law and facts of the case, not based on any bias by the Court. COURT ORDERED, petition DENIED; Status Check SET for filing of the Order.

NDC

07/20/17 8:30 AM STATUS CHECK: FILING OF ORDER

CLERK'S NOTE: The above minute order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD

LOVELOCK, NV 89419 //ob/07/05/17

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **July 06, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

July 06, 2017 **8:30 AM** **Motion for Clarification**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Smith, Tyler D.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court noted it was basing its decision on the pleadings filed. COURT ADOPTED the Procedural History as set forth by the State and ORDERED, motion DENIED. Court stated the motion failed to state any legal bases and it was a non-cognizable claim. COURT FURTHER ORDERED, Status Check SET for filing of the Order.

NDC

07/27/17 8:30 AM STATUS CHECK: FILING OF ORDER

CLERK'S NOTE: The above minute order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419 //ob/07/06/17

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **July 20, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

July 20, 2017 **8:30 AM** **All Pending Motions** **Status Check: Filing of Order**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Phyllis Irby

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- STATUS CHECK: FILING OF ORDER

The Court noted the Order has been received by the Court. COURT ORDERED, OFF CALENDAR

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 07, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

September 07, 2017 8:30 AM Motion

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Graham, Elana L.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court noted Defendant appealed the Court's previous ruling as it is on appeal with the Nevada Supreme Court this Court lacked jurisdiction until there was a remitter from the Nevada Supreme Court. COURT ORDERED, matter OFF CALENDAR until the Court received a remitter from the Nevada Supreme Court. COURT FURTHER ORDERED, Defendant's Pro Per Motion to Set Hearing of Plaintiff's Motion to Correct Illegal Sentence as to Affords Proper Procedure Due Process with Time for Plaintiffs Reply to States Response ADVANCED and OFF CALENDAR.

NDC

CLERK'S NOTE: The above minute order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419 //ob/09/11/17

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 28, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

September 28, 2017 8:30 AM All Pending Motions

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

LoGrippo, Frank R.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court stated Defendant had filed various motions and his case was pending with the Nevada Supreme Court. COURT ORDERED, Motions DENIED WITHOUT PREJUDICE. Court noted upon remitter from the Nevada Supreme Court, Defendant could re-notice his motions.

DEFENDANT'S PRO PER MOTION TO STRIKE AND OBJECT TO DIRECT CASE NUMBER ASSIGNED AND REQUEST INDEPENDENT HABEAS CORPUS NO. UNDER NRS 34.360 PURSUANT LIBERTY INTEREST AND DUE PROCESS OF LAW UNDER XIV AMENDMENT: COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

DEFENDANT'S PRO PER MOTION TO WAIVE ANY OSTENSIBLE ORAL ARGUMENT BY PERSONAL APPEARANCE THEREBY REQUESTING ANY PRO SE APPEARANCE TO BE CONDUCTED VIA TELEPHONICALLY: COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

DEFENDANT'S PRO PER MOTION TO OBJECT NRS 34.360: COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

DEFENDANT'S PRO PER MOTION TO OBJECT TO COURT CLERK FILING PETITION FOR HABEAS CORPUS UNDER NRS 34.360 AS A DIRECT ACTION THERE BY UNLAWFULLY

RECHARACTERIZING NEW INDEPENDENT CIVIL SUIT AS A PROCESSING IN THE ORIGINAL ACTION DENYING THE "LIBERTY CLAUSE": COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

DEFENDANT'S PRO PER MOTION TO CORRECT ILLEGAL SENTENCE WITH NEW HEARING DATE: COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

COURT FURTHER ORDERED, Defendant's Pro Per Motion to Strike State's Untimely Opposition to Defendant's Motion to Correct Illegal Sentence and Defendant's Pro Per Reply to State's Opposition to Defendant's Motion to Correct Illegal Sentence Untimely Served and Filed Supported by Incoming Legal Mailing as Exhibit "A" ADVANCED and DENIED WITHOUT PREJUDICE.

CLERK'S NOTE: The above minute order has been distributed to:

BRIAN O'KEEFE # 90244
1200 PRISON ROAD
LOVELOCK, NV 89419 ob/09/29/17

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **October 24, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

October 24, 2017 **8:30 AM** **Motion**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Graham, Elana L.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Upon Court's inquiry, Ms. Graham advised the State was not served and needed more time. COURT ORDERED, Briefing Schedule SET as follows: State's Reply due by November 21, 2017 and hearing SET.

NDC

01/11/18 8:30 AM DEFENDANT'S PRO PER MOTION TO DEMAND UPON REQUEST BY LAW TO PLACE DEFENDANT'S MOTION UNDER PROTECTED LIBERTY INTEREST- NRS 176.555 BACK ON CALENDAR BASED ON MOTION BEING INCIDENTAL AND CAN BE FILED AT ANYTIME IN ACCORDANCE WITH O'KEEFE PROCEDURAL DUE PROCESS PROTECTED BY THE DUE PROCESS CAUSE OF THE US FOURTEENTH CONSTITUTIONAL AMENDMENT

CLERK'S NOTE: The above minute order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419 //ob/10/24/17.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **October 26, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

October 26, 2017 **8:30 AM** **Petition for Writ of Habeas Corpus**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Smith, Tyler D.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Upon Court's inquiry, Mr. Smith advised the State had not filed an opposition. Colloquy regarding the State's opposition. COURT ORDERED, Briefing Schedule SET as follows: State's Reply due by November 16, 2017; matter CONTINUED.

NDC

CONTINUED TO: 11/30/17 8:30 AM

CLERK'S NOTE: The above minute order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419 //ob/10/26/17

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **November 30, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

November 30, 2017 **8:30 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

PORTZ, KENNETH	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...DEFENDANT'S PRO PER MOTION FOR ORDER TO HAVE P&P FILE AMENDED PSI

Defendant not present. Court stated it would base its decision on the pleadings filed and ORDERED, Decision DEFERRED. The Court will prepare a written decision.

NDC

CLERK'S NOTE: The above minute order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419 //ob/11/30/17

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **December 05, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

December 05, 2017 **4:00 PM** **Minute Order**

HEARD BY: Villani, Michael **COURTROOM:** Chambers

COURT CLERK: Olivia Black

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Defendant's Pro Per Petition for Writ of Habeas Corpus came before this Court on the November 30, 2017 Calendar. The Court deferred its decision and now rules as follows:

Defendant filed his Post-Conviction Petition for Writ of Habeas Corpus on 8/15/17 alleging a double jeopardy violation. The Judgment of Conviction was entered in this case on 9/5/12.

First, the Court adopts the State's procedural history. Second, the Petition is time-barred under NRS 34.726(1) with no good cause shown for the delay. Under NRS 34.726(1), the Petition must be filed within one (1) year of the filing of the Judgment of Conviction, unless good cause is shown for the delay. Here, all of the information was available to Defendant regarding his allegation of a double jeopardy violation at the time the Judgement of Conviction was filed. Finally, the Petition is successive pursuant to NRS 34.810 because Defendant failed to raise this issue in previously filed Petitions, and the alleged issue existed at the time the previous Petitions were filed. Good cause has not been established to overcome the time bar or the fact that this Petition is successive.

Therefore, COURT ORDERED Defendant's Pro Per Petition for Writ of Habeas Corpus 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 9, 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

01/09/18 8:30 AM STATUS CHECK: FILING OF THE FINDINGS OF FACT AND CONCLUSION OF LAW

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

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419 //ob/12/5/17

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **December 20, 2017**

08C250630 The State of Nevada vs Brian K O'Keefe

December 20, 2017 **4:00 PM** **Minute Order**

HEARD BY: Villani, Michael **COURTROOM:** Chambers

COURT CLERK: Olivia Black

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **January 11, 2018**

08C250630 The State of Nevada vs Brian K O'Keefe

January 11, 2018 **8:30 AM** **Motion**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Smith, Tyler D.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court noted it was basing its decision on the pleadings on file and not taking oral argument. COURT ADOPTED the Procedural History as set forth by the State. Court stated it appeared Defendant stated the sentence was illegal. Court further stated Defendant was sentenced within statutory guidelines. COURT FINDS it was not facially illegal and ORDERED, Motion DENIED; Status Check SET.

NDC

02/01/18 8:30 AM STATUS CHECK: FILING OF ORDER

CLERK'S NOTE: The above minute order has been distributed to

Brian O'keefe #90244
1200 Prison Rd
Lovelock NV 89419 //ob/1/16/18

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 08, 2018**

08C250630 The State of Nevada vs Brian K O'Keefe

March 08, 2018 **8:30 AM** **Motion to Reconsider**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black
Vanessa Medina

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Holthus, Mary Kay	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court noted Defendant was in the Nevada Department of Corrections. Court stated it was basing its decision on the pleadings filed and not accepting oral argument. COURT ADOPTED the Procedural History as set forth by the State's motion. Court further stated Defendant's motion did not comply with EDCR 2.34 and ORDERED, Motion DENIED. Court stated Defendant had appeals pending therefore the Court did not have jurisdiction to the extent that the appeal issue was unrelated to this matter. Court further stated if the Court did have jurisdiction, Defendant had not set forth any evidence that he that he filed a federal appeal, COURT FURTHER ORDERED, Motion DENIED; State to prepare the Order. COURT ORDERED, Status Check SET for filing of the Order. Court stated the status check date would be vacated if the Order was signed and filed.

NDC

03/29/18 8:30 AM STATUS CHECK: FILING OF ORDER

CLERK'S NOTE: The above minute order has been distributed to:

Brian O'keefe #90244

1200 Prison Rd
Lovelock NV 89419 //ob/03/08/18

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **April 05, 2018**

08C250630 The State of Nevada vs Brian K O'Keefe

April 05, 2018 **8:30 AM** **Motion**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

State of Nevada	Plaintiff
Turner, Robert B.	Attorney

JOURNAL ENTRIES

- Defendant not present. Court noted Defendant was in the Nevada Department of Corrections. Court further noted this was Defendant's motion to order the Clerk of the Court to file a motion he filed January 26th; however, the Court stated Defendant did not attach a copy of motion and there had been no Order from this Court precluding the Clerk's office from filing something. COURT ORDERED, Motion DENIED WITHOUT PREJUDICE. Defendant needed to resubmit and it would be re-filed.

CLERK'S NOTE: The above minute order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419 //ob/04/05/18

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **October 25, 2018**

08C250630 The State of Nevada vs Brian K O'Keefe

October 25, 2018 **8:30 AM** **Motion** **Defendant's Pro Per Motion to Correct Facially Illegal Sentence**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Haly Pannullo

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Albright, Brandon B.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court noted the decision is being made based upon the pleadings and is not accepting oral argument. Court stated this is the Defendant's 3rd Motion to correct illegal sentence and attacks the legality of the sentence which is not a proper form to do such; therefore, ORDERED, Motion DENIED; State to prepare the Order; matter SET for Status Check regarding Order.

NDC

11/15/18 8:30 AM STATUS CHECK: ORDER

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **January 22, 2019**

08C250630 The State of Nevada vs Brian K O'Keefe

January 22, 2019 **8:30 AM** **Motion**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

State of Nevada	Plaintiff
Turner, Robert B.	Attorney

JOURNAL ENTRIES

- Defendant not present. Court stated as to Defendant's motion it was difficult to figure out what Defendant was requesting. Court further stated there was a upcoming Petition for Writ of Habeas Corpus and ORDERED, matter CONTINUED to hear the matters at the same time.

NDC

CLERK'S NOTE: A copy of the Minute Order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419//ob/01/22/19

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **February 12, 2019**

08C250630 The State of Nevada vs Brian K O'Keefe

February 12, 2019 **8:30 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Deputy District Attorney Ashley Lacher, present on behalf of the State.

PETITION FOR WRIT OF HABEAS CORPUS...DEFENDANT'S NOTICE OF MOTION...STATE'S NOTICE OF MOTION AND MOTION TO DECLARE VEXATIOUS LITIGANT AND TO REFER DEFENDANT TO DEPARTMENT OF CORRECTIONS FOR FORFEITURE OF STATUTORY CREDITS

Defendant not present. Court noted the Motion was filed on or about January 28th, the Court was uncertain as to how long it took to deliver it to Defendant who was in the Nevada Department of Corrections (NDC). Court further noted Defendant's request for more time didn't set forth the reasons that he needed more time to file an opposition; however, the Court stated it wanted to make certain Defendant had enough time to file an opposition. Court further stated Defendant needed to file an opposition within two weeks from today. COURT ORDERED, Briefing Schedule SET as follows: Defendant's opposition due by February 26, 2019; States Reply due by March 5, 2019 and hearing SET; Petition for Writ of Habeas and Defendant's Notice of Motion CONTINUED.

NDC

03/12/19 8:30 AM PETITION FOR WRIT OF HABEAS CORPUS...DEFENDANT'S NOTICE OF

MOTION...STATE'S NOTICE OF MOTION AND MOTION TO DECLARE VEXATIOUS LITIGANT AND TO REFER DEFENDANT TO DEPARTMENT OF CORRECTIONS FOR FORFEITURE OF STATUTORY CREDITS

CLERK'S NOTE: A copy of this Minute Order has been distributed to:
Brian O'Keefe # 90244
1200 Prison Rd
Lovelock, NV 89419//ob/02/12/19

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 12, 2019**

08C250630 The State of Nevada vs Brian K O'Keefe

March 12, 2019 **8:30 AM** **All Pending Motions**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Lacher, Ashley A.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS...DEFENDANT'S NOTICE OF MOTION...STATE'S NOTICE OF MOTION AND MOTION TO DECLARRE VEXATIOUS LITIGANT AND TO REFER DEFENDANT TO DEPARTMENT OF CORRECTIONS FOR FORFEITURE OF STATUTORY CREDITS

Defendant not present. Court noted this was the State's motion to declare Defendant a vexatious litigant. Court further noted it was basing its decision on the pleadings that had been filed and not taking oral argument. COURT ADOPTED the Procedural History as set forth by the State. Court stated the State previously file this motion and the Court continued to give Defendant an opportunity to file a opposition. COURT FINDS, Defendant had filed numerous successive petitions that had not had any merit and also filed some motions that were nonsequential. COURT FINDS, Defendant's previous motions had been frivolous and both of a harassing nature toward the State, those motions have been without arguable or legal or factual bases. Court stated Defendant allowed to present to the Court any future pleadings for the Court to determine whether or not there was any legal bases for those motions thereafter the Court would allow them to be filed and heard in due course. COURT ORDERED, Motion GRANTED; Status Check SET for State to prepare the formal findings, facts and conclusion of law. COURT FURTHER ORDERED, Defendant to referred to the Department of Corrections for Forfeiture of Statutory Credits GRANTED.

NDC

04/04/19 8:30 AM STATUS CHECK: FINDINGS, FACTS AND CONCLUSION OF LAW

CLERK'S NOTE: The above minute order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419 //ob/03/13/19.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **March 19, 2019**

08C250630 The State of Nevada vs Brian K O'Keefe

March 19, 2019 **8:30 AM** **Opposition**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES PRESENT:

Getler, Stephanie M.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court noted it previously declare Defendant a vexatious litigant. COURT ORDERED, Motion DENIED as being Moot. Court noted the State was to prepare a Findings, Facts and Conclusion of Law by April 4, 2019.

NDC

CLERK'S NOTE: A copy of this Minute Order has been distributed to:

BRIAN O'KEEFE #90244
1200 PRISON ROAD
LOVELOCK, NV 89419 //ob/03/20/19

2009

State's Exhibit List

CASE # C250630

		OFFERED DATE		OBJ	ADMITTED	DATE
1.	Large Diagram of Apartment	3/17	X	NO	X	3/17
2. 0	CD - 911 call Todd	3/16	X	NO	X	3/16
3. 0	CD - 911 call Robin	3/16	X	NO	X	3/16
4. 0	Photo of ID of victim			STIP	X	3/16
5. 0	Declaration of Research Assistant					
6. 0	Photo	3/16	X	NO	X	3/16
7. 0	Photo	3/16	X	NO	X	3/16
8. 0	Photo	3/16	X	NO	X	3/16
9. 0	Photo	3/16	X	NO	X	3/16
10. 0	Photo	3/16	X	NO	X	3/16
11. 0	Photo	3/16	X	NO	X	3/16
12. 0	Photo					
13. 0	Photo	3/16	X	NO	X	3/16
14. 0	Photo					
15. 0	Photo	3/16	X	NO	X	3/16
16. 0	Photo	3/16	X	NO	X	3/16
17. 0	Photo	3/16	X	NO	X	3/16
18. 0	Photo	3/16	X	NO	X	3/16
19. 0	Photo	3/16	X	NO	X	3/16
20. 0	Photo	3/16	X	NO	X	3/16
21. 0	Photo	3/16	X	NO	X	3/16
22. 0	Photo	3/16	X	NO	X	3/16
23. 0	Photo	3/16	X	NO	X	3/16
24. 0	Photo	3/16	X	NO	X	3/16
25. 0	Photo	3/16	X	NO	X	3/16
26. 0	Photo	3/16	X	NO	X	3/16
27. 0	Photo	3/16	X	NO	X	3/16
28. 0	Photo	3/16	X	NO	X	3/16
29. 0	Photo	3/16	X	NO	X	3/16
30. 0	Photo	3/16	X	NO	X	3/16

31. 0	Photo	3/16	X	NO	X	3/16
32. 0	Photo	3/18	X	NO	X	3/18
33. 0	Photo	3/18	X	NO	X	3/18
34. 0	Photo	3/18	X	NO	X	3/18
35. 0	Photo	3/18	X	NO	X	3/18
36. 0	Photo	3/18	X	NO	X	3/18
37. 0	Photo	3/18	X	NO	X	3/18
38. 0	Photo	3/16	X	NO	X	3/18
39. 0	Photo	3/16	X	NO	X	3/16
40. 0	Photo	3/18	X	NO	X	3/18
41.	Photo	3/16	X	NO	X	3/16
42. 0	Photo	3/16	X	NO	X	3/16
43. 0	Photo	3/16	X	NO	X	3/16
44. 0	Photo	3/18	X	NO	X	3/18
45. 0	Photo	3/16	X	NO	X	3/18
46. 0	Photo	3/16	X	NO	X	3/18
47. 0	Photo	3/18	X	NO	X	3/18
48. 0	Photo	3/18	X	NO	X	3/18
49. 0	Photo	3/16	X	NO	X	3/16
50. 0	Photo	3/16	X	NO	X	3/16
51. 0	Photo	3/16	X	NO	X	3/16
52. 0	Photo	3/18	X	NO	X	3/16
53. 0	Photo	3/16	X	NO	X	3/16
54. 0	Photo	3/18	X	NO	X	3/16
55. 0	Photo	3/18	X	NO	X	3/18
56. 0	Photo	3/18	X	NO	X	3/18
57. 0	Photo	3/18	X	NO	X	3/18
58. 0	Photo	3/18	X	NO	X	3/18
59. 0	Photo	3/18	X	NO	X	3/18
60. 0	Photo	3/16	X	NO	X	3/16
61. 0	Photo	3/16	X	NO	X	3/16
62. 0	Photo	3/16	X	NO	X	3/16
63. 0	Photo	3/16	X	NO	X	3/16

64. 6	Photo	3/16	X	NO	X	3/16
65. 5	Small Photo	3/18	X	NO	X	3/18
66. 0	Body Diagram	3/18	X	NO	X	3/18
67. 0	Judgment of Conviction for Deft.	3/18	X	NO	X	3/18
68. 0	CD	3/18	X	NO	X	3/18
69. 0	CD	3/18	X	NO	X	3/18

2009

Deft's Exhibit List

CASE # C250630

		OFFERED DATE		OBJ	ADMITTED	DATE
A.	Mines & Associates			STIP	X	3/19
B.	Medical Records - Victoria Whitmarsh					
C.	Las Vegas Fire and Rescue Records					
D.	AMR Records					
E.	Military Records - O'Keefe					
F.	CCDC Visitation Records - Cheryl Morris **(NOT PROVIDED)**					
G.	Photo	3/16	X	NO	X	3/16
H.	Photo	3/16	X	NO	X	3/16
I.	Photo	3/16	X	NO	X	3/16
J.	Photo	3/16	X	NO	X	3/16
K.	Photo	3/16	X	NO	X	3/16
L.	Photo	3/16	X	NO	X	3/16
M.	Photo	3/16	X	NO	X	3/16
N.	Photo	3/16	X	NO	X	3/16
O.	Photo	3/16	X	NO	X	3/16
P.	Photo	3/16	X	NO	X	3/16
Q.	Photo	3/16	X	NO	X	3/16
R.	Photo	3/16	X	NO	X	3/16
S.	Photo	3/16	X	NO	X	3/16
T.	Photo	3/16	X	NO	X	3/16
U.	Photo	3/16	X	NO	X	3/16
V.	Photo	3/16	X	NO	X	3/16
W.	Photo	3/16	X	NO	X	3/16
X.	Photo	3/16	X	NO	X	3/16
Y.	Photo	3/16	X	NO	X	3/16
Z.	Photo	3/16	X	NO	X	3/16
AA.	Photo	3/16	X	NO	X	3/16
BB.	Photo	3/19	X	NO	X	3/19
CC.	Photo	3/19	X	NO	X	3/19
DD.	Photo	3/19	X	NO	X	3/19

EE. 0	Photo	3/19	X	NO	X	3/19
FF. 0	Photo	3/16	X	NO	X	3/16
GG. 0	Photo	3/16	X	NO	X	3/16
HH. 0	Photo	3/16	X	NO	X	3/16
II. 0	Photo	3/16	X	NO	X	3/16
JJ. 0	Photo	3/16	X	NO	X	3/16
KK. 0	Photo	3/16	X	NO	X	3/16
LL. 0	Photo	3/16	X	NO	X	3/16
MM. 0	Photo	3/16	X	NO	X	3/16
NN. 0	Photo	3/16	X	NO	X	3/16
OO. 0	Photo	3/16	X	NO	X	3/16
PP. 0	Photo	3/16	X	NO	X	3/16
QQ. 0	Photo	3/16	X	NO	X	3/16
RR. 0	Photo	3/17	X	NO	X	3/17
SS. 0	Photo	3/16	X	NO	X	3/16
TT. 0	Photo	3/16	X	NO	X	3/16
UU. 0	Photo	3/16	X	NO	X	3/16
VV. 0	Photo	3/18	X	NO	X	3/18
WW. 0	Photo	3/16	X	NO	X	3/16
XX. 0	Photo	3/16	X	NO	X	3/16
YY. 0	Copy of Receipt and Note with Names and Phone Numbers					
ZZ. 0	Photo	3/16	X	NO	X	3/16
AAA. 0	Photo	3/16	X	NO	X	3/16
BBB. 0	Photo	3/16	X	NO	X	3/16
CCC. 0	Photo	3/16	X	NO	X	3/16
DDD. 0	Photo	3/16	X	NO	X	3/16
EEE. 0	Photo	3/16	X	NO	X	3/16
FFF. 0	Photo	3/16	X	NO	X	3/16
GGG 0	Photo	3/16	X	NO	X	3/16
HHH. 0	Photo	3/16	X	NO	X	3/16
III. 0	Photo	3/16	X	NO	X	3/16
JJJ. 0	Photo	3/16	X	NO	X	3/16
KKK 0	Photo	3/16	X	NO	X	3/16

LLL.	Photo	3/16	X	NO	X	3/16
MMM.	Photo	3/17	X	NO	X	3/17
NNN.	Photo	3/17	X	NO	X	3/17
OOO.	Photo	3/17	X	NO	X	3/17
PPP.	Photo	3/17	X	NO	X	3/17
QQQ.	Photo	3/17	X	NO	X	3/17
RRR.	Photo	3/17	X	NO	X	3/17
SSS.	Photo	3/17	X	NO	X	3/17
TTT.	Photo	3/17	X	NO	X	3/17
UUU.	Photo	3/17	X	NO	X	3/17
VVV.	Photo	3/17	X	NO	X	3/17
WWW.	Photo	3/17	X	NO	X	3/17
XXX.	SKIPPED					
YYY.	Photo	3/17	X	NO	X	3/17
ZZZ.	Small Photo	3/18	X	NO	X	3/18
AAAA.	Photo	3/19	X	NO	X	3/19
BBBB.	Photo	3/19	X	NO	X	3/19
CCCC.	Photo	3/19	X	NO	X	3/19
DDDD.	Photo	3/19	X	NO	X	3/19
EEEE.	Photo	3/19	X	NO	X	3/19
FFFF.	Photo	3/19	X	NO	X	3/19
GGGG.	Photo	3/19	X	NO	X	3/19
HHHH.	Photo	3/19	X	NO	X	3/19
IIII.	Photo	3/19	X	NO	X	3/19
JJJJ.	Photo	3/19	X	NO	X	3/19
KKKK.	Photo	3/19	X	NO	X	3/19
LLLL.	Documents	3/20	✓	NO	✓	3/20

Court's Exhibit List

CASE # C222052

		OFFERED DATE	OBJ	ADMITTED	DATE
1.	Question from Juror #3			X	3/16
2.	Question from Juror #10			X	3/16
3.	Question from Juror #7			X	3/17
4.	Question from Juror #4			X	3/17
5.	Question from Juror #6			X	3/17
6.	Question from Juror #3			X	3/17
7.	Question from Juror #7			X	3/17
8.	Question from Juror #6			X	3/17
9.	Email			X	3/18
10.	Emails			X	3/18
11.	Copy of note			X	3/18
12.	Question from Juror #10			X	3/18
13.	Question from Juror #7				3/19
14.	Question from Juror #7				3/19
15.	Question from Juror #7				3/19
16.	Instruction not given				3/19
17.	Instruction not given				3/19
18.	Instruction not given				3/19
19.	Question from Juror #7				3/19
20.	Question from Juror #7				3/19
21.	Question from Juror #7				3/19
22.	Question from Juror #7				3/19
23.	Question from Juror #7				3/19
24.	Question from Juror #7				3/20
25.	Question from Juror #10				3/20
25a.	Question from Juror #10				3/20
26.	Question from Juror #3				3/20
27.	Question and answer from Jurors during deliberation				3/20

STATE'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
1. Diagram of Apartment	8/26	✓	no	8/26	✓
2. Photograph	8/26	✓	no	8/26	✓
3. Photograph	8/26	✓	no	8/26	✓
4. Photograph		✓			✓
5. Photograph		✓			✓
6. Photograph		✓			✓
7. Photograph	8/26	✓	no	8/26	✓
8. Photograph	8/27	✓	no	8/27	✓
9. Photograph	8/27	✓	no	8/27	✓
10. Photograph	8/27	✓	no	8/27	✓
11. Photograph		✓			✓
12. Photograph		✓			✓
13. Photograph		✓			✓
14. Photograph		✓			✓
15. Photograph		✓			✓
16. Photograph		✓			✓
17. Photograph		✓			✓
18. Photograph		✓			✓
19. Photograph		✓			✓
20. Photograph		✓			✓
21. Photograph	8/27	✓	no	8/27	✓
22. Photograph	8/26	✓	no	8/26	✓
23. Photograph	8/27	✓	no	8/27	✓
24. Photograph	8/27	✓	no	8/27	✓
25. Photograph	8/27	✓	no	8/27	✓
26. Photograph		✓			✓
27. Photograph	8/27	✓	no	8/27	✓

STATE'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
28. Photograph	8/27	✓	no	8/27	✓
29. Photograph		✓			✓
30. Photograph		✓			✓
31. Photograph		✓			✓
32. Photograph		✓			✓
33. Photograph		✓			✓
34. Photograph		✓			✓
35. Photograph		✓			✓
36. Photograph		✓			✓
37. Photograph		✓			✓
38. Photograph		✓			✓
39. Photograph		✓			✓
40. Photograph		✓			✓
41. Photograph		✓			✓
42. Photograph		✓			✓
43. Photograph		✓			✓
44. Photograph		✓			✓
45. Photograph		✓			✓
46. Photograph		✓			✓
47. Photograph		✓			✓
48. Photograph		✓			✓
49. Photograph		✓			✓
50. Photograph		✓			✓
51. Photograph		✓			✓
52. Photograph		✓			✓
53. Photograph		✓			✓
54. Photograph		✓			✓
55. Photograph	8/27	✓	no	8/27	✓

STATE'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
56. Photograph	8/27	✓	no	8/27	✓
57. Photograph	8/27	✓	no	8/27	✓
58. Photograph	8/30	✓	no	8/30	✓
59. Photograph	8/30	✓	no	8/30	✓
60. Photograph	8/27	✓	no	8/27	✓
61. Photograph	8/26	✓	no	8/26	✓
62. Photograph	8/30	✓	no	8/30	✓
63. Photograph		✓			✓
64. Photograph		✓			✓
65. Photograph		✓			✓
66. Photograph		✓			✓
67. Photograph		✓			✓
68. Photograph		✓			✓
69. Photograph		✓			✓
70. Photograph		✓			✓
71. Photograph		✓			✓
72. Photograph		✓			✓
73. Photograph		✓			✓
74. Photograph		✓			✓
75. Photograph		✓			✓
76. Photograph	8/30	✓	no	8/30	✓
77. Photograph	8/30	✓	no	8/30	✓
78. Photograph		✓			✓
79. Photograph		✓			✓
80. Photograph	8/30	✓	no	8/30	✓
81. Photograph	8/25	✓	no	8/25	✓
82. Photograph		✓			✓
83. Photograph	8/25	✓	no	8/25	✓

STATE'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
84. Photograph	8/25	✓	no	8/25	✓
85. Photograph		✓			✓
86. Photograph		✓			✓
87. Photograph		✓			✓
88. Photograph		✓			✓
89. Photograph		✓			✓
90. Photograph		✓			✓
91. Photograph		✓			✓
92. Photograph		✓			✓
93. Photograph		✓			✓
94. Photograph		✓			✓
95. Photograph		✓			✓
96. Photograph		✓			✓
97. Photograph		✓			✓
98. Photograph		✓			✓
99. Photograph		✓			✓
100. Photograph		✓			✓
101. Photograph		✓			✓
102. Photograph		✓			✓
103. Photograph		✓			✓
104. Photograph		✓			✓
105. Photograph		✓			✓
106. Photograph		✓			✓
107. Photograph		✓			✓
108. Photograph		✓			✓
109. Photograph		✓			✓
110. Photograph		✓			✓
111. Photograph	8/25	✓	no	8/25	✓

STATE'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
112. Photograph	8/25	✓	no	8/25	✓
113. Photograph		✓			✓
114. Photograph		✓			✓
115. Photograph		✓			✓
116. Photograph		✓			✓
117. Photograph		✓			✓
118. Evidence Bag		✓			✓
119. Photograph		✓			✓
120. Photograph	8/25	✓	no	8/25	✓
121. Photocopy of Knife	8/30	✓	no	8/30	✓
121. Photocopy of Knife	8/30	✓	no	8/30	✓
123. Photocopy of Clothes	8/30	✓	no	8/30	✓
124. Evidence Bag	8/30	✓	no	8/30	✓
124-A. Bag Not opened					
125. Evidence Bag	8/30	✓	no	8/30	✓
125-A. Bag Not opened					
125-B. " "					
126. Evidence Bag	8/27	✓	no	8/27	✓
126-A. Bag Not opened					
127. Evidence Bag	8/30	✓	no	8/30	✓
127-A. Bag Not opened					
127-B " "					
128. Evidence Box	8/30	✓	no	8/30	✓
128-A Knife	8/30	✓	no	8/30	✓
129. 911 Call Disc	8/26	✓	no	8/26	✓
130. Photograph	8/25	✓	no	8/25	✓
131. Photograph.	8/30	✓	no	8/30	✓
132. Photograph	8/30	✓	no	8/30	✓

STATE'S **EXHIBITS** **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
133. Judgment of Conviction	8/30	✓	no	8/30	✓
134. O'Keefe Interview (Disc)	8/30	✓	no	8/30	✓

DEFENDANT'S EXHIBITS CASE NO. C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
A. Autopsy Diagram	8/25	✓	no	8/25	✓
B. Photograph	8/30	✓	no	8/30	✓
C. Photograph	8/25	✓	no	8/25	✓
D. Photograph		✓			✓
E. Photograph		✓			✓
F. Photograph		✓			✓
G. Photograph		✓			✓
H. Photograph		✓			✓
I. Photograph		✓			✓
J. Photograph	8/25	✓	no	8/25	✓
K. Records (Bank)	8/31	✓	no	8/31	✓
L. LVMPD Subpoena	8/30	✓	no	8/30	✓
M. Records from DETR					
~~N. Disc of Interview (withdrawn)~~					
O. Photograph	8/26	✓	no	8/26	✓
P. "		✓			✓
Q. "		✓			✓
R. "		✓			✓
S. "		✓			✓
T. "		✓			✓
U. "		✓			✓
V. "		✓			✓
W. "		✓			✓
X Photograph	8/26	✓	no	8/26	✓
Y. "	8/30	✓	no	8/30	✓
Z. "	8/30	✓	no	8/30	✓
AA. Photograph	8/30	✓	no	8/30	✓

DEFENDANT'S EXHIBITS CASE NO. C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
BB. Photograph	8/30	✓	no	8/30	✓
CC. "	8/30	✓	no	8/30	✓
DD. "	8/30	✓	no	8/30	✓
EE. "	8/30	✓	no	8/30	✓
FF. "	8/30	✓	no	8/30	✓
GG. "	8/30	✓	no	8/30	✓
HH. "	8/27	✓	no	8/27	✓
II. "	8/27	✓	no	8/27	✓
JJ. Photograph	8/27	✓	no	8/27	✓
KK. Photograph	8/27	✓	no	8/27	✓
LL. Photograph	8/27	✓	no	8/27	✓
MM. Photograph	8/30	✓	no	8/30	✓
NN. "	8/30	✓	no	8/30	✓
OO. "		✓			✓
PP. "		✓			✓
QQ "		✓			✓
RR. "		✓			✓
SS "		✓			✓
TT "		✓			✓
UU. "		✓			✓
VV. "		✓			✓
WW. "		✓			✓
XX. "		✓			✓
YY. Photograph	8/30	✓	no	8/30	✓
ZZ Xerox Copy of Emergency nos.	8/30	✓	no	8/30	✓
AAA Photograph	8/30	✓	no	8/30	✓
BBB Photograph	8/30	✓	no	8/30	✓

DEFENDANT'S EXHIBITS CASE NO. C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
CCC Photograph	8/30	✓	no	8/30	✓
DDD "		✓			✓
EEE "		✓			✓
FFF "		✓			✓
GGG "		✓			✓
HHH "		✓			✓
III "		✓			✓
JJJ "		✓			✓
KKK "	8/30	✓	no	8/30	✓
LLL "		✓			✓
MMM "		✓			✓
NNN "		✓			✓
OOO "		✓			✓
PPP "		✓			✓
QQQ "		✓			✓
RRR "		✓			✓
SSS "		✓			✓
TTT "		✓			✓
UUU "		✓			✓
VVV "		✓			✓
WWW "		✓			✓
XXX "	8/30	✓	no	8/30	✓
YYY "	8/30	✓	no	8/32	✓
222 "	8/30	✓	no	8/30	✓
AAAA "	8/30	✓	no	8/32	✓
BBBB "		✓			✓
CCCC Photograph	8/30	✓	no	8/32	✓

DEFENDANT'S EXHIBITS CASE NO. C250630

		DATE	OFFERED	OBJ	DATE	ADMITTED
DDDD	Photograph	8/30	✓	no	8/30	✓
EEEE	"		✓			✓
FFFF	"		✓			✓
GGGG	"		✓			✓
HHHH	"		✓			✓
IIII	"	8/30	✓	no	8/30	✓
JJJJ	"					
KKKK	"	8/30	✓	no	8/30	✓
LLLL	"					
MMMM	"	8/30	✓	no	8/30	✓
NNNN	"		✓			✓
OOOO	"		✓			✓
PPPP	"		✓			✓
QQQQ	"	8/30	✓	no	8/30	✓
RRRR	"					
SSSS	"	8/30	✓	no	8/30	✓
TTTT	"					
UUUU	"	8/30	✓	no	8/30	✓
VVVV	"		✓			✓
WWWW	"	8/30	✓	no	8/30	✓
XXXX	"	8/31	✓	no	8/31	✓
YYYY	"	8/31	✓	no	8/31	✓
2222	Photograph	8/31	✓	no	8/31	✓
AAAAA	Photograph	8/31	✓	no	8/31	✓
BBBBB	Nash Cone					
CCCCC	Mmio & Associates	8/31	✓	no	8/31	✓
DDDDD	Military Records	8/31	✓	no	8/31	✓

DEFENDANT'S EXHIBITS CASE NO. C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
EEEEE Photograph	8/31	✓	no	8/31	✓

Court's **EXHIBITS** **CASE NO.** C250630

	DATE OFFERED	OBJ	DATE ADMITTED
1. Excerpts from Medical Records			AUG 23 2010
2. Question from Juror # 8			AUG 26 2010
3 Question from Juror # 2			AUG 26 2010
4. Question from Juror # 7			AUG 26 2010
5. Question from Juror #4			AUG 27 2010
6. Question from Juror # 3			AUG 27 2010
7 Question from Juror #4			AUG 27 2010
8. Question from Juror #7			AUG 30 2010
9 Question from Juror #7			AUG 30 2010
10 Question from Juror # 12			AUG 30 2010
11. Question from Juror # 13			AUG 30 2010
12. Question from Juror # 8			AUG 30 2010
13. Question from Juror # 13			AUG 30 2010
14 Stipulation as to medical Records.			AUG 30 2010
15. DIDC & Interview			AUG 30 2010
16. Question from Jury			SEP 01 2010
17 Note from Jury			SEP 01 2010
18 Note from Jury			SEP 02 2010
19 Note from Juror #5			SEP 02 2010
20. Note from Jury			SEP 02 2010
21 Note from Juror # 5			SEP 02 2010
22 Interrogatories & Dept.			SEP 02 2010
23 Powerpoint Presentation by DA			SEP 02 2010

STATE'S EXHIBITS

CASE NO. C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
1. Disc	4/27	✓	no	4/27	✓
2. Las Vegas Justice Court Record Search Information	4/27	✓	no	4/27	✓
3. Photographs	4/27	✓	no	4/27	✓
4. Las Vegas Justice Court Record Search Information	4/27	✓	no	4/27	✓
5. Las Vegas Justice Court Record Search Information	4/27	✓	no	4/27	✓
6. Photographs	4/27	✓	no	4/27	✓
7. UMC Medical Records					
8. Judgment of Conviction	4/27	✓	no	4/27	✓
9. Judgment (Las Vegas Municipal Court)	4/27	✓	no	4/27	✓
10. Judgment of Conviction	4/27	✓	no	4/27	✓

STATE'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
1. Diagram of Apartment	6/12	✓	no	6/12	✓
2. Photograph	6/12	✓	no	6/12	✓
3. Photograph	6/12	✓	no	6/12	✓
4. Photograph		✓			✓
5. Photograph		✓			✓
6. Photograph	6/12	✓	no	6/12	✓
7. Photograph	6/13	✓	no	6/13	✓
8. Photograph	6/13	✓	no	6/13	✓
9. Photograph	6/12	✓	no	6/12	✓
10. Photograph	6/13	✓	no	6/13	✓
11. Photograph		✓			✓
12. Photograph		✓			✓
13. Photograph		✓			✓
14. Photograph		✓			✓
15. Photograph		✓			✓
16. Photograph		✓			✓
17. Photograph		✓			✓
18. Photograph		✓			✓
19. Photograph		✓			✓
20. Photograph		✓			✓
21. Photograph	6/13	✓	no	6/13	✓
22. Photograph	6/12	✓	no	6/12	✓
23. Photograph	6/12	✓	no	6/12	✓
24. Photograph	6/13	✓	no	6/13	✓
25. Photograph		✓			✓
26. Photograph		✓			✓
27. Photograph		✓			✓
28. Photograph	6/13	✓	no	6/13	✓

STATE'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
29. Photograph	6/13	✓	no	6/13	✓
30. Photograph		✓			✓
31. Photograph		✓			✓
32. Photograph		✓			✓
33. Photograph		✓			✓
34. Photograph		✓			✓
35. Photograph		✓			✓
36. Photograph		✓			✓
37. Photograph		✓			✓
38. Photograph		✓			✓
39. Photograph		✓			✓
40. Photograph		✓			✓
41. Photograph		✓			✓
42. Photograph		✓			✓
43. Photograph		✓			✓
44. Photograph		✓			✓
45. Photograph		✓			✓
46. Photograph		✓			✓
47. Photograph		✓			✓
48. Photograph		✓			✓
49. Photograph		✓			✓
50. Photograph		✓			✓
51. Photograph		✓			✓
52. Photograph		✓			✓
53. Photograph		✓			✓
54. Photograph		✓			✓
55. Photograph		✓			✓
56. Photograph	6/13	✓	no	6/13	✓

STATE'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
57. Photograph	6/13	✓	no	6/13	✓
58. Photograph	6/13	✓	no	6/13	✓
59. Photograph					
60. Photograph	6/13	✓	no	6/13	✓
61. Photograph		✓			✓
62. Photograph		✓			✓
63. Photograph	6/13	✓	no	6/13	✓
64. Photograph	6/13	✓	no	6/13	✓
65. Photograph	6/13	✓	no	6/13	✓
66. Photograph		✓			✓
67. Photograph		✓			✓
68. Photograph		✓			✓
69. Photograph		✓			✓
70. Photograph		✓			✓
71. Photograph		✓			✓
72. Photograph		✓			✓
73. Photograph		✓			✓
74. Photograph		✓			✓
75. Photograph		✓			✓
76. Photograph	6/13	✓	no	6/13	✓
77. Photograph	6/13	✓	no	6/13	✓
78. Photograph		✓			✓
79. Photograph		✓			✓
80. Photograph	6/13	✓	no	6/13	✓
81. Photograph	6/13	✓	no	6/13	✓
82. Photograph		✓			✓
83. Photograph		✓			✓
84. Photograph	6/13	✓	no	6/13	✓

STATE'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
85. Photograph	6/13	✓	no	6/13	✓
86. Photograph		✓			✓
87. Photograph		✓			✓
88. Photograph		✓			✓
89. Photograph		✓			✓
90. Photograph		✓			✓
91. Photograph		✓			✓
92. Photograph		✓			✓
93. Photograph		✓			✓
94. Photograph		✓			✓
95. Photograph		✓			✓
96. Photograph		✓			✓
97. Photograph		✓			✓
98. Photograph		✓			✓
99. Photograph		✓			✓
100. Photograph		✓			✓
101. Photograph		✓			✓
102. Photograph		✓			✓
103. Photograph		✓			✓
104. Photograph		✓			✓
105. Photograph		✓			✓
106. Photograph		✓			✓
107. Photograph		✓			✓
108. Photorgraph		✓			✓
109. Photograph		✓			✓
110. Photograph		✓			✓
111. Photograph		✓			✓
112. Photograph	6/13	✓	no	6/13	✓

STATE'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
113. Photograph	6/13	✓	no	6/13	✓
114. Photograph		✓			✓
115. Photograph		✓			✓
116. Photograph		✓			✓
117. Photograph		✓			✓
118. Photograph		✓			✓
119. Photograph		✓			✓
120. Photograph	6/13	✓	no	6/13	✓
121. Photograph of Knife	6/13	✓	no	6/13	✓
122. Photograph of Knife	6/13	✓	no	6/13	✓
123. Photograph of Clothes	6/13	✓	no	6/13	✓
124. Evidence Bag	6/13	✓	no	6/13	✓
124-A. Contents (Not opened)					
125. Evidence Bag	6/13	✓	no	6/13	✓
125-A. Contents (Not opened)					
125-B. Contents (Not opened)					
126. Evidence Bag	6/13	✓	no	6/13	✓
126-A. Contents (Not opened)					
127. Evidence Bag	6/13	✓	no	6/13	✓
127-A. Contents (Not opened)					
127-B. Contents (Not opened)					
128. Evidence Box	6/13	✓	no	6/13	✓
128-A. Knife	6/13	✓	no	6/13	✓
129. 911 Call Disc					
130. Photograph	6/13	✓	no	6/13	✓
131. Photograph					
132. Photograph	6/13	✓	no	6/13	✓
133. Judgment of Conviction	6/12	✓	Yes	6/12	✓

STATE'S **EXHIBITS** **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
133-A. Verdict	6/12	✓	Yes	6/12	✓
133-B. Information	6/12	✓	Yes	6/12	✓
134. O'Keefe Interview Disc	6/14	✓	no	6/14	✓

COURT'S EXHIBITS **CASE NO.** C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
1. Note from Prospective Juror					6/11
2. Deft's Request for Newly Assigned Judge					6/11
3. Question from Juror #2					6/12
4. Question from Juror #1					6/13
5. Question from Juror #					6/13
6. Deft's proposed Stipulation					6/14
7. 911 Call (Not played)					6/14
8 Note from Juror # 12					6/14
9 Stipulation (Victoria Whitmarsh)					6/14
10. Defts proposed Jury Instructions					6/14
11. Question from Juror # 8					6/14

DEFENDANT'S EXHIBITS CASE NO. C250630

	DATE	OFFERED	OBJ	DATE	ADMITTED
A. Photograph	6/13	✓	no	6/13	✓
B. "		✓			✓
C. "		✓			✓
D. "		✓			✓
E Photograph	6/13	✓	no	6/13	✓

Certification of Copy

State of Nevada
County of Clark } **SS:**

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA, Plaintiff(s), vs. BRIAN KERRY O'KEEFE, Defendant(s).	Case No: 08C250630 Dept No: XVII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 1 day of May 2019.

Steven D. Grierson, Clerk of the Court

Heather Ungermann, Deputy Clerk