

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

BRIAN KERRY O'KEEFE

Case No. 77541-CoA

Appellant

CASE-OF-FIRST-IMPRESSON DEMONSTRATED BY WRIT

-VS-

FILED

OCT 08 2019

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

THE STATE OF NEVADA

Respondent

PETITION FOR REHEARING WHERE THE COURT
OVERLOOKED, AS A LEGAL FACT, THE
CERTIFICATE OF APPEALABILITY TRIGGERED
PROCEDURAL LAW WHEN ISSUED AS AN AFFIRMATIVE
PRETRIAL DEFENSE AS A PROTECTED LIBERTY INTEREST 1

Pursuant NEAD 40, et seq.

COMES NOW, Brian O'Keefe, Appellant pro per, to file this action where by "Rule of Law," the court overlooked the entire purpose of formal law.

Moreover, Nevada Constitution, article I § 5 incorporates United States Constitution, article I § 9, Clause 2 whereby the privilege of the Writ of Habeas Corpus "shall" not be suspended.

Moreover, the Double Jeopardy Clause is embodied within the Due Process Clause of the U.S. XIV Amendment whereby a colorable claim was "NOTICED" to the Sheriff, Doug Gillette, Attorney General, and the State of Nevada. Custody status was the key where sentencing should have been prohibited.

• ISSUE OVERLOOKED (FORMAL LAW WITH SUBSTANTIVE LAW)

RECEIVED

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As prima-facie-evidence, again the Writ attached to O'Keefe's Motion to CORRECT FACIALLY ILLEGAL SENTENCE provides and demonstrates that the

INVOLVE HAINES v. KENNER, 464 U.S. 89, 520 (RT2); Nev. Const., article(s) I § 2, I § 8(s), I § 5. FN1 The status authorities embodied within the Writ, especially "SLACK" was a big clue!

19-41669

second state trial, conducted 8/23/2010 to 9/02/2010, on case No. C250630 warranted review, as an affirmative defense before O'Keefe's custody status changed. • (8/25/2010 - "second" Jeopardy when Jury empaneled.)

This court's affirmance order issued 9/23/2019 truly demonstrates nothing less than a total disregard for any and all DUE PROCESS the certificate of appealability entitled, O'Keefe when issued under the custody as a true pretrial detainee. (under no judgment)

Can this court recognize that the purpose of federal statute 28 U.S.C. § 2252 was promulgated to provide proper notice whereas PRIOR to the hearing of a habeas corpus proceedings in behalf of a person in CUSTODY of state officers ... NOTICE shall be served on the attorney general ... at the time of issuing the WRIT shall direct.

Now naturally this all occurred, whereby the state, on the court record, misrepresented the pretrial federal writ under section 2241(c)(3) as a post conviction writ and a collateral attack when appellant was under no judgment. The purpose of the state's argument was nothing less than intentional fraud to deprive the effect of formal law generated by the ORDER.

Apparently, this court has never experienced this claim of error, raised by O'Keefe, and lack either the knowledge or integrity to admit, Writ means itself, an order, written by a court commanding the Respondents - Appellees, to do something more than just create subterfuge.

Every judge appellant has come under has been flagged for abuse-of-discretion at every stage, yet all pretend they did no wrong. What then is the true

purpose of any law, let alone the Rule of Law? Judge Villani even decreed this very court's ORDER OF REVERSAL AND REMAND, No. 74598 still sitting on it, 2 yrs now! O'Keefe filed every action timely, where any meaningful redress is lost in the legal shuffle of procedural poppycock, to deny every petitioner, (utilizing [extreme] due diligence), honest, effective, equitable review. That amounts to, here in the case at bar, nothing less than fundamental manifest injustice coupled with a perfect example of suspension of the writ, violating Nev. Const., art. I § 5.

A logical legal analysis of any claim of double jeopardy would alert any honest judicial officer to consider the actual possibility that an actual violation could be present. Therefore, the fact that O'Keefe's second-trial could be a bonafide 5th Amendment violation would warrant review of the hypothetical violation, "before" another (3rd) trial would occur.

In the minimum, however since the trial occurred again (3rd time), the state got what they wanted and there would have been no prejudice, to the state at that point, to respect due process of law, and the writ issued, while O'Keefe was still a pretrial detainee.

I mean, a proper litigant has to be the one to really explain to this Court the true effect of due process *via* formal law, bestowed by the COA & I. Of course not. You all knew what you were doing, called deprivation of one's liberty without due process of law. Change O'Keefe's custody status quickly before the guaranteed alleged review. I PRAY "God's" Law will affect your idea of "man's" Law - in this matter. CONCLUSION: Grant Rehearing, reverse affirmance and remand to district court for further proceedings (

CERTIFICATE OF SERVICE

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

☐ Opening Brief

☐ Reply Brief

☐ Motion: _____

☒ Petition: REHEARING

☐ Other: _____

to the below address(es) on this 30th day of September, 2019, by
placing same in the hands of prison staff for posting in the U.S. Mail, per

Nev.R.App.P. 25:

Prison Slip
Nevada Court of Appeals

OFFICE OF THE CLERK

201 N. Carson St.

Ste. 201

Carson City, Nevada 89701

Attorney For _____

☐ and

_____, Nevada 89____

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

Appellant In Pro Se