

NOAS

Brian Kerry O'Keefe # 90244

Lovelock Correctional Center

1200 Prison Road

Lovelock, Nevada 89419

Petitioner In Pro Se

FILED

APR -4 2022

Elizabeth A. Brown
CLERK OF COURT

Electronically Filed
Apr 07 2022 08:47 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

EIGHTH
DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

BRIAN KERRY O'KEEFE ,)

Plaintiff,)

-vs-)

THE STATE OF NEVADA)

Defendant .)

* Case of First IMPRESSION

Case No. A-18-783689-C202793

Dept. No. XXIV - 24

Judge Erik Ballou

(OMNIBUS - NOTICE OF APPEAL)

NOTICE IS GIVEN that Plaintiff, Brian Kerry O'Keefe ,

in pro se, hereby appeals to the Nevada Supreme Court the denial
of OMNIBUS MOTION NR8 176.555 / NRCIVP 60(B) on the issues on page 2 ,

as filed/entered on the 17th day of March , 2022 ,

(complete if applicable) and the _____

_____, as filed/entered on the _____ day of

_____, 20____, in the above-entitled Court.

Dated this 30th day of March , 2022 .

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

Plaintiff In Pro Se

1 See issues on appeal on page 2
hereby attached .

1 of 3

Docket 84511 Document 2022-10825

RECEIVED
APR 04 2022
090*72 WROFTTJ31
CLERK OF THE COURT

(ISSUES ON APPEAL) Case no.'s: A-18-783689
04 CZ02793

1. Omnibus motions ultimately denied by district court and appealability.
Case No. CZ02793 related A-18-783689-W.
2. The Nevada Legislature's intent of Nevada Revised Statute 176.555.
Protected liberty interests.
3. Courts to apply exception to the law of the case doctrine raised.
Badly reasoned decisions on claims timely brought. (see NRS 486.73)
4. "Judicial admissions" and application to claims. Confession of error.
5. Continuing collateral consequences, adverse daily to O'Keefe.
6. "En banc" decisions and statutory interpretations.
7. New constitutional rules - retroactive. Waiver of "Teague" defense, etc.
8. Fundamental Miscarriage of Justice standard of review, overcoming bars.
9. Inappropriate statute, misdemeanor, charged and conviction under
NRS 200.481 versus appropriate NRS 33.018 (Dating Relationship).
10. "Due Process" mandates state's to provide corrective judicial
process to correct fundamental manifest injustice and issues
of fundamental miscarriage of justice.
11. District courts cannot raise defenses for State. (e.g. laches)
Moreover, custody status is key affecting scope of statutes.

Case No. - A-18-783689 - 04C202793

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 30th day of March, 2022, by placing same in the U.S. Mail via prison law library staff:

Dr 788 Slip No. 2671624
Clerk All registered participants of CMECF served by Clerk.
NOTE: INVOICE EDOR 8.05 (a)(4) Registered Participants
SERVICE LIST : Clark County District Attorney

• Paper copy to Non-Registered Participants
Brian Kerry O'Keefe
1200 Prison Rd.
Lovelock, NV 89419

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. A-18-783689
C202793 does not contain the social security number of any person.

Dated this 30th day of March, 2022.

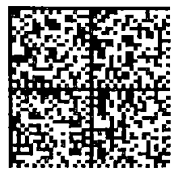
Brian K O'Keefe
Brian K O'Keefe

Petitioner In Pro Se

Encl 03/20/24

LCC
1200 Prison Rd.
Cave Rock, NV 89419

LOVELOCK CORRECTIONAL CENTER



US POSTAGE
ZIP 89419 \$000.53
02 4W
0000369000 MAR 31 2022

INMATE LEGAL
MAIL CONFIDENTIAL

Clerk of the Court (8th Judicial)

Steven Green

200 Lewis Ave., 3rd Fl

C78 Vegas NV 89101

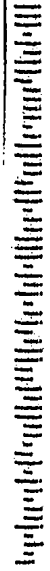
out 3/30/2022

CECA MAIL

RECEIVED
APR - 4 2022

CLERK OF THE COURT

~~Confidential~~





1 ASTA

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 BRIAN KERRY O'KEEFE,

11 Plaintiff(s),

12 vs.

13 STATE OF NEVADA,

14 Defendant(s),
15

Case No: A-18-783689-W

Dept No: XXIV

16
17 **CASE APPEAL STATEMENT**
18

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

20 2. Judge: Erika Ballou

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

22 Counsel:

23 Brian K. O'Keefe 390244
24 1200 Prison Rd.
Lovelock, NV 89419

25 4. Respondent (s): State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89155-2212

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

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

5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

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

7 8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, February 11, 2022
8 ***Expires 1 year from date filed*
9 Appellant Filed Application to Proceed in Forma Pauperis: N/A
Date Application(s) filed: N/A

10 9. Date Commenced in District Court: October 30, 2018

11 10. Brief Description of the Nature of the Action: Civil Writ

12 Type of Judgment or Order Being Appealed: Misc. Order

13 11. Previous Appeal: Yes

14 Supreme Court Docket Number(s): 77797

15 12. Child Custody or Visitation: N/A

16 13. Possibility of Settlement: Unknown

17 Dated This 5 day of April 2022.

18 Steven D. Grierson, Clerk of the Court

19
20
21 /s/ Heather Ungermann

22 Heather Ungermann, Deputy Clerk
23 200 Lewis Ave
24 PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

25 cc: Brian K. O'Keefe
26
27
28

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-18-783689-W

Brian O'Keefe, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

§
§
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§
§

Location: **Department 24**
 Judicial Officer: **Ballou, Erika**
 Filed on: **10/30/2018**
 Case Number History:
 Cross-Reference Case Number: **A783689**
 Defendant's Scope ID #: **1447732**
 Supreme Court No.: **77797**

CASE INFORMATION

Related Cases
 04C202793 (Writ Related Case)

Case Type: **Other Civil Writ**

Statistical Closures
 12/19/2020 Other Manner of Disposition

Case Status: **12/19/2020 Closed**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-18-783689-W
 Court Department 24
 Date Assigned 03/10/2022
 Judicial Officer Ballou, Erika

PARTY INFORMATION

Plaintiff **O'Keefe, Brian Kerry**

Lead Attorneys

Pro Se

Defendant **Nevada State of**


Wolfson, Steven B
Retained
 702-671-2700(W)


DATE


EVENTS & ORDERS OF THE COURT


INDEX


EVENTS

10/19/2018  Application to Proceed in Forma Pauperis
 Filed By: Plaintiff O'Keefe, Brian Kerry
[3] Application to Proceed in Forma Pauperis (Confidential)

10/30/2018  Inmate Filed - Petition for Writ of Habeas Corpus
 Party: Plaintiff O'Keefe, Brian Kerry
[1] Petition for Civil Writ of Coram Nobis Pursuant to Nevada Constitution Article 6 Section 6 Based Upon Now Recognized Trusillo vs. State, 310 P.3d 594 (Nev. 2013)

10/30/2018  Order to Proceed In Forma Pauperis
 Granted for: Plaintiff O'Keefe, Brian Kerry
[2] Order to Proceed In Forma Pauperis (Confidential)

10/30/2018  Notice of Motion
 Filed By: Plaintiff O'Keefe, Brian Kerry
[4] Notice of Petition

10/30/2018  Certificate of Mailing
 Filed By: Plaintiff O'Keefe, Brian Kerry

CASE SUMMARY
CASE NO. A-18-783689-W

[5] Certificate of Inmate's Institutional Account (Confidential)

11/30/2018



Motion for Judgment

Filed By: Plaintiff O'Keefe, Brian Kerry

[6] Motion for Judgment on the Pleadings with Notice Provided by Affidavit that the State Failed to File any Type of Response Despite Service of Said Petition as a Matter of Law with Consequences as Admission Under NRCIVP. 8 (d)

12/24/2018



Notice of Appeal

Filed By: Plaintiff O'Keefe, Brian Kerry

[7] Civil - Notice of Appeal 1

12/24/2018



Motion to Amend Judgment

Filed By: Plaintiff O'Keefe, Brian Kerry

[9] Motion to Alter or Amend Judgment of 12/5/18 Denying Petition Where State Admitted Plaintiff's Averments By N.R.Civ.P. 8(d), EDCR 2.20

12/24/2018



Notice of Motion

Filed By: Plaintiff O'Keefe, Brian Kerry

[10]

12/29/2018



Case Appeal Statement

Filed By: Plaintiff O'Keefe, Brian Kerry

[8]

01/16/2019



Motion

Filed By: Plaintiff O'Keefe, Brian Kerry

[11] Motion Court to Adjudicate Rule 59(e) Motion and/or Enter Order Denying by Written Entry

01/16/2019



Notice of Motion

Filed By: Plaintiff O'Keefe, Brian Kerry

[12]

01/17/2019



Ex Parte Motion

Filed By: Plaintiff O'Keefe, Brian Kerry

[13] Ex Parte Motion for Court to Take Judicial Notice That Premature Notice of Appeal Has No Effect on Jurisdiction to Which District Court Retains Jurisdiction Pursuant Common Law and Pursuant to N.R.A.P. 4(a)(6) (Premature Notice of Appeal) Where O'Keefe also Motioned S.C.N. by Copy as Exhibit "A":

01/22/2019



Motion

[14] Judicial Notice Pursuant to N.R.S. 47.150(2) of Motion for Leave of Court to File Judicial Notice Pursuant to N.R.S. 47.140 that the Law-of-the-Nevada-Supreme-Court... Therefore Appealable Under N.R.A.P. 3A(b)(1)

03/21/2019



Motion

Filed By: Plaintiff O'Keefe, Brian Kerry

[15] Motion the Court to Take Judicial Notice C.J. Gibbons of the Nevada Supreme Court has Noticed and Provided This Court Opportunity to Reconsider its December 5, 2018 Decision When Filing Order as an Equitable Means Based on Exhibit 3

03/21/2019
















Supplemental

Filed by: Plaintiff O'Keefe, Brian Kerry

[16] Supplemental Authority of Dotson v. Nevada, 114 Nev. 582 (1998) Where the Law-of-the-Supreme-Court is NRS 209.451(1)(d) is inapplicable to Chapter 34 Habeas Corpus Actions,

CASE SUMMARY
CASE NO. A-18-783689-W

	<i>Period!</i>
03/21/2019	 Notice of Motion Filed By: Plaintiff O'Keefe, Brian Kerry <i>[17]</i>
03/25/2019	 Order <i>[18]</i>
03/25/2019	 Notice of Entry of Order <i>[19] Notice of Entry of Order: Order</i>
04/22/2019	 Notice Filed By: Plaintiff O'Keefe, Brian Kerry <i>[20] Judicial Notice of Objection to District Courts' Order Filed in Supreme Court of Nevada on 4/9/2019</i>
04/22/2019	 Objection Filed By: Plaintiff O'Keefe, Brian Kerry <i>[21] Objection to District Court's Order Filed 3/25/2019 Which Omits Facts and Remains Silent to Legal Fact that the State Committed Fraud by 1 the Simulated Fact that O'Keefe Pled Guilty to Court 6 and the Court Lacked Any Felonies Conviction as a Jurisdictional Fact That did not Exist to Sustain Burglary as a Miscarriage of Justice by State Impediment</i>
02/25/2020	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>[22] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed; Review Denied</i>
12/19/2020	 Order to Statistically Close Case <i>[23] Civil Order to Statistically Close Case</i>
02/01/2022	 Application to Proceed in Forma Pauperis Filed By: Plaintiff O'Keefe, Brian Kerry <i>[24] Application to Proceed in Forma Pauperis</i>
02/01/2022	 Motion for Relief Filed By: Plaintiff O'Keefe, Brian Kerry <i>[25] Motion for Relief from Judgment or Order Pursuant to Rule 60 of the Nevada Rules of Civil Procedure Based on new Change in Law by Scotys and Nevada En Bank Decision of harris or in the Alternative, Motion to Vacate Illegal Sentence</i>
02/01/2022	 Notice of Motion Filed By: Plaintiff O'Keefe, Brian Kerry <i>[26] Notice of Motion</i>
02/01/2022	 Clerk's Notice of Hearing <i>[27] Notice of Hearing</i>
02/11/2022	 Order to Proceed In Forma Pauperis <i>[28] Order to Proceed In Forma Pauperis</i>
02/18/2022	 Opposition to Motion Filed By: Defendant Nevada State of <i>[29] State's Opposition to Defendant's Motion for Relief from Judgment or Order Pursuant to Rule 60 of the Nevada Rules of Civil Procedure Based on New Change in Law by Scotus and</i>

CASE SUMMARY
CASE NO. A-18-783689-W

Nevada En Bank Decision of Harris or in the Alternative, Motion to Vacate Illegal Sentence

03/01/2022



Notice of Change of Hearing
[30] Notice of Change of Hearing

03/10/2022



Notice of Department Reassignment
[31] Notice of Department Reassignment

03/17/2022



Motion
Filed By: Plaintiff O'Keefe, Brian Kerry
[32] Motion for Judgment on the Pleadings Where Plaintiff Invokes Rule 8 (b)(6) and EDCR 2.20 for Judicial Admissions O'Keefe had Habitation and Occupancy Rights Warranting Order to Vacate Count 6

03/18/2022



Motion to Strike
Filed By: Plaintiff O'Keefe, Brian Kerry
[33] Motion to Strike State's Untimely Opposition to Motion for Relief from Judgment or Order Pursuant to Nevada Rule of Civil Procedure 12 (F) Invoking EDCR 2.20, 3.20

03/23/2022



Order
[34] Order Denying Petitioner's Motion for Relief From Judgment

03/23/2022



Motion
Filed By: Plaintiff O'Keefe, Brian Kerry
[35] Ex Parte Motion for this Honorable Court to Issue Order Directing Clerk of the Court - Steven Grierson to Provide Copy of PSI (C2027932) Never Seen by Inmate

04/04/2022



Notice of Appeal
Filed By: Plaintiff O'Keefe, Brian Kerry
[36] Notice of Appeal

04/05/2022



Case Appeal Statement
Case Appeal Statement

DISPOSITIONS

03/25/2019

Order of Dismissal (Judicial Officer: Wiese, Jerry A.)
Debtors: Nevada State of (Defendant)
Creditors: Brian Kerry O'Keefe (Plaintiff)
Judgment: 03/25/2019, Docketed: 04/01/2019

02/25/2020

Clerk's Certificate (Judicial Officer: Wiese, Jerry A.)
Debtors: Brian Kerry O'Keefe (Plaintiff)
Creditors: Nevada State of (Defendant)
Judgment: 02/25/2020, Docketed: 02/25/2020
Comment: Supreme Court No 77797 Appeal Affirmed

HEARINGS

12/05/2018



Petition (9:00 AM) (Judicial Officer: Wiese, Jerry A.)
Events: 10/30/2018 Notice of Motion
Notice of Petition for Civil Writ of Coram Nobis
Denied;
Journal Entry Details:

No parties present. Court ADVISED, it appeared the State was properly noticed with the Motion, no opposition was filed, however, in reading the petition, Court NOTED, Plaintiff was convicted of counts 1 and 6 and found not guilty on all of the sexual assault charges. Furthermore, the Court, was not convinced the acquittal on counts 2 to 5 required an acquittal

CASE SUMMARY
CASE NO. A-18-783689-W

on counts 1 and 6, as they were independent charges, consequently, ORDERED, Petition DENIED.;

01/30/2019



Motion (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Events: 12/24/2018 Notice of Motion

Notice of Motion

Off Calendar;

Journal Entry Details:

No parties present. COURT NOTED it could not make sense of the pleadings, and ORDERED, matter OFF CALENDAR.;

02/20/2019



Motion (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Events: 01/16/2019 Notice of Motion

Notice of Motion

MINUTES



Notice of Motion

Filed By: Plaintiff O'Keefe, Brian Kerry

[12]

Off Calendar;

Journal Entry Details:

The Court noted it has already ruled on this matter. COURT ORDERED, OFF CALENDAR.;

02/10/2022



Minute Order (3:00 AM) (Judicial Officer: Wiese, Jerry A.)

Minute Order - No Hearing Held;

Journal Entry Details:

Pursuant to the Court's request, COURT ORDERS, case 04C202793 which is the underlying criminal case related to the instant matter, be attached to case A-18-783689-W and listed under 'related cases' as a Writ Related Case.;

03/09/2022



Minute Order (11:30 AM) (Judicial Officer: Jones, Tierra)

Minute Order - No Hearing Held;

Journal Entry Details:

As this case is in relation to writ related criminal case 04C202793, which is assigned to Department 24, this case should also be assigned to Department 24. Pursuant to EDCR 1.31 (b)(4) this case is being reassigned to Department 24.;

03/10/2022



Motion for Relief (8:30 AM) (Judicial Officer: Wiese, Jerry A.)

Plaintiff's - Motion for Relief from Judgment or Order Pursuant to Rule 60 of the Nevada Rules of Civil Procedure Based on new Change in Law by Scotys and Nevada En Bank Decision of harris or in the Alternative, Motion to Vacate Illegal Sentence

Off Calendar;

Via MO

Journal Entry Details:

State present via BlueJeans video conferencing. Court advised the Court reviewed the file and noted that an order was issued; however, Court advised this case should have tracked up to Department 24 along with its corresponding criminal case. Court advised the matter was discussed with Criminal Presiding Judge Jones and it was this Court's understanding that Judge Jones ordered the case reassigned to Department 24. Therefore, COURT ORDERED, matter taken OFF CALENDAR.;

03/17/2022



Minute Order (2:30 PM) (Judicial Officer: Ballou, Erika)

Minute Order - No Hearing Held;

Journal Entry Details:

The Court having considered all papers and pleadings and determining that no hearing is necessary hereby VACATES the hearing scheduled for March 21, 2022. Petitioner s Motion for Relief from Judgment or Order is hereby DENIED. In his Motion, Petitioner seeks relief from a court order denying his Petition for Writ of Coram Nobis. Petitioner filed his Petition for Civil Writ of Coram Nobis Pursuant to Nevada Constitution Article 6 Section 6 Based

CASE SUMMARY

CASE NO. A-18-783689-W

Upon Now Recognized Trusillo vs. State, 310 P.3d 594 (Nev. 2013) on October 30, 2018. The district court denied the petition on December 5, 2018. O Keefe filed a Notice of Appeal on December 24, 2018. The Nevada Court of Appeals affirmed the denial of his petition for coram nobis on September 20, 2019. Remittitur issued February 18, 2020. O Keefe filed a Petition for Review, which the Nevada Supreme Court denied on January 24, 2020. The Court of Appeals held all of O Keefe's claims were waived due to not being raised in a timely matter or outside the scope as they were legal claims and not factual ones, and affirmed the district court's denial of the petition. Petitioner's petition has been heard, decided on its merits, appealed, affirmed, and denied rehearing and this Court cannot, nor would it, overturn the affirmance. Additionally, Petitioner seeks that this court vacates his illegal sentence if this Court does not overturn the affirmance. However, Petitioner does not intend to get resentenced, which is what would occur if this Motion was granted. Instead, Petitioner wants this Court to overturn his burglary conviction. A motion to correct a sentence presupposes a valid conviction, therefore, O Keefe's conviction cannot be discredited or vacated in this manner. If O Keefe wishes to file a motion to correct his sentence, he must do so under case number 04C202793, as A-18-783689-W refers to his petition for writ of coram nobis. However, even if O Keefe were to file this motion to vacate an illegal sentence in the original case, it would still be the improper vehicle for the relief he seeks, which is overturning his sentence. Due to the aforementioned reason, Petitioner's Motion is hereby DENIED. The State is to promptly prepare the order. CLERK'S NOTE: This Minute Order was electronically filed by Courtroom Clerk, Ro'Shell Hurtado, to all registered parties for Odyssey File & Serve: Mailed to: Brian O'Keefe #90244, 1200 Prison Road, Lovelock, NV, 89419.//rh03.17.22;

CIVIL COVER SHEET

Clark County County, Nevada

Case No.

(Assigned by Clerk's Office)

A-18-783689-W

XXX

I. Party Information

Plaintiff(s) (name/address/phone):

Brian O'Keefe Lovebeck Corr. Ctr.
1200 Prison Road
Lovebeck, Nevada 89419

Defendant(s) (name/address/phone):

THE STATE OF NEVADA et al.
200 LEWIS AVE
Las Vegas NV. 89155-2212

Attorney (name/address/phone):

SAME

Attorney (name/address/phone):

Clark County District Attorney
SAME AS ABOVE

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

Civil Cases

Real Property

- ☐ Landlord/Tenant
☐ Unlawful Detainer
☐ Title to Property
☐ Foreclosure
☐ Liens
☐ Quiet Title
☐ Specific Performance
☐ Condemnation/Eminent Domain
☐ Other Real Property
☐ Partition
☐ Planning/Zoning

Torts

- ☐ Negligence
☐ Negligence - Auto
☐ Negligence - Medical/Dental
☐ Negligence - Premises Liability (Slip/Fall)
☐ Negligence - Other

- ☐ Product Liability
☐ Product Liability/Motor Vehicle
☐ Other Torts/Product Liability
☐ Intentional Misconduct
☐ Torts/Defamation (Libel/Slander)
☐ Interfere with Contract Rights
☐ Employment Torts (wrongful termination)
☐ Other Torts
☐ Anti-trust
☐ Fraud/Misrepresentation
☐ Insurance
☐ Legal Tort
☐ Unfair competition

Probate

- ☐ Summary Administration
☐ General Administration
☐ Special Administration
☐ Set Aside Estates
☐ Probate Trust/Conservatorships
☐ Other Probate

Other Civil Filing Types

- ☐ Construction Defect
☐ Breach of Contract
☐ Building & Construction
☐ Insurance Carrier
☐ Commercial Instrument
☐ Other Contracts/Acct/Judgment
☐ Collection of Actions
☐ Employment Contract
☐ Guarantee
☐ Sale Contract
☐ Uniform Commercial Code
☐ Civil Petition for Judicial Review
☐ Other Administrative Law
☐ Department of Motor Vehicles
☐ Employer's Insurance of Nevada

- ☐ Appeal from Lower Court
 (also check applicable civil case box)
☐ Transfer from Justice Court
☐ Justice Court Civil appeal
☒ Civil Writ: CORAM NOBIS
☐ Other Special Proceeding
☐ Other Civil Filing
☐ Compromise of Minor's Claim
☐ Conversion of Property
☐ Damage to Property
☐ Employment Security
☐ Enforcement of Judgment
☐ Foreign Judgment - Civil
☐ Other Personal Property
☐ Recover of Property
☐ Stockholder Suit
☐ Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark and Washoe Counties only.)

- ☐ NRS Chapters 78-88
☐ Investments (NRS 104B)
☐ Enhanced Case Mgmt/Business
☐ Commodities (NRS 90)
☐ Deceptive Trade Practices (NRS 598)
☐ Other Business Court Matters
☐ Securities (NRS 90)
☐ Trademarks (NRS 600A)

September 27, 2018

Date

Brian O'Keefe

Signature of initiating party

#90244 per NRS 208.165

RECEIVED

OCT 04 2018

Nevada AOC - Planning and Analysis Division

See other side for family-related case filings.

A-18-783689-W
CCS
Civil Cover Sheet
4792568Form PA 201
Rev 2.0

CLERK OF THE COURT



LCC LL FORM 26.026

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
PAMELA WECKERLY
Chief Deputy District Attorney
Nevada Bar #006163
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BRIAN O'KEEFE,
Petitioner #1447732

Defendant.

CASE NO: A-18-783689-W
(C-04-202793)

DEPT NO: XXIV

ORDER DENYING PETITIONER'S MOTION FOR RELIEF FROM JUDGMENT

DATE OF HEARING: March 17, 2022
TIME OF HEARING: 2:30 A.M.

THIS MATTER was to have come on for hearing on March 17, 2022, however, the hearing date was vacated and there was no appearance by the State or the Petitioner. This Honorable Court took the matter under advisement and has issued the following ruling based on the pleadings and good cause appearing therefor,

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1 IT IS HEREBY ORDERED that the Plaintiff's Motion for Relief from Judgment, shall
2 be, and it is DENIED.

3 In his Motion, Petitioner seeks relief from a court order denying his Petition for Writ
4 of Coram Nobis. Petitioner filed his Petition for Civil Writ of Coram Nobis Pursuant to
5 Nevada Constitution Article 6, Section 6 based upon now recognized Trusillo vs. State, 310
6 P.3d 594 (Nev. 2013) on October 30, 2018. The district court denied the petition on
7 December 5, 2018.

8 O'Keefe filed a Notice of Appeal on December 24, 2018. The Nevada Court of
9 Appeals affirmed the denial of his petition for coram nobis on September 20, 2019. Remittitur
10 issued February 18, 2020. O'Keefe filed a Petition for Review, which the Nevada Supreme
11 Court denied on January 24, 2020. The Court of Appeals held all of O'Keefe's claims were
12 waived due to not being raised in a timely matter or outside the scope as they were legal
13 claims and not factual ones and affirmed the district court's denial of the petition. Petitioner's
14 petition has been heard, decided on its merits, appealed, affirmed, and denied rehearing and
15 this Court cannot, nor would it, overturn the affirmance.

16 Additionally, Petitioner seeks that this court vacate his illegal sentence if this Court
17 does not overturn the affirmance. However, Petitioner does not intend to get resentenced,
18 which is what would occur if this Motion was granted.

19 Instead, Petitioner wants this Court to overturn his burglary conviction. A motion to
20 correct a sentence presupposes a valid conviction, therefore, O'Keefe's conviction cannot be
21 discredited or vacated in this manner. If O'Keefe wishes to file a motion to correct his
22 sentence, he must do so under case number 04C202793, as A-18-783689-W refers to his
23 petition for writ of coram nobis. However, even if O'Keefe were to file this motion to vacate

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1 an illegal sentence in the original case, it would still be the improper vehicle for the relief he
2 seeks, which is overturning his sentence.

3 Dated this 23rd day of March, 2022

4 

5
6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #001565

888 8D8 D81D 8780
Erika Ballou
District Court Judge

9 BY /s/ PAMELA WECKERLY
10 PAMELA WECKERLY
11 Chief Deputy District Attorney
12 Nevada Bar #006163

13 CERTIFICATE OF SERVICE

14 I certify that on the 22nd day of March, 2022, I mailed a copy of the foregoing Order
15 to:

16 BRIAN O'KEEFE, BAC #90244
17 LOVELOCK STATE PRISON
18 1200 PRISON ROAD
19 LOVELOCK, NEVADA 89419

20 BY /s/ J. HAYES
21 Secretary for the District Attorney's Office
22
23
24
25
26
27

28 04F09774X/jh/MVU

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Brian O'Keefe, Plaintiff(s)

CASE NO: A-18-783689-W

7 vs.

DEPT. NO. Department 24

8 Nevada State of, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 3/23/2022

15 Department Law Clerk

dept30lc@clarkcountycourts.us

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Writ

COURT MINUTES

December 05, 2018

A-18-783689-W Brian O'Keefe, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

December 05, 2018 9:00 AM Petition

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Vanessa Medina

RECORDER:

REPORTER: Kimberly Farkas

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- No parties present. Court ADVISED, it appeared the State was properly noticed with the Motion, no opposition was filed, however, in reading the petition, Court NOTED, Plaintiff was convicted of counts 1 and 6 and found not guilty on all of the sexual assault charges. Furthermore, the Court, was not convinced the acquittal on counts 2 to 5 required an acquittal on counts 1 and 6, as they were independent charges, consequently, ORDERED, Petition DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Writ

COURT MINUTES

January 30, 2019

A-18-783689-W Brian O'Keefe, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

January 30, 2019 9:00 AM Motion

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Vanessa Medina

RECORDER:

REPORTER: Kimberly Farkas

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- No parties present. COURT NOTED it could not make sense of the pleadings, and ORDERED, matter OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Writ

COURT MINUTES

February 20, 2019

A-18-783689-W Brian O'Keefe, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

February 20, 2019 9:00 AM Motion

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Phyllis Irby

RECORDER:

REPORTER: Kimberly Farkas

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court noted it has already ruled on this matter. COURT ORDERED, OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Writ

COURT MINUTES

February 10, 2022

A-18-783689-W Brian O'Keefe, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

February 10, 2022 3:00 AM Minute Order

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Lauren Kidd

RECORDER: Vanessa Medina

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Pursuant to the Court's request, COURT ORDERS, case 04C202793 which is the underlying criminal case related to the instant matter, be attached to case A-18-783689-W and listed under 'related cases' as a Writ Related Case.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Writ

COURT MINUTES

March 09, 2022

A-18-783689-W Brian O'Keefe, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

March 09, 2022 11:30 AM Minute Order

HEARD BY: Jones, Tierra **COURTROOM:** Chambers

COURT CLERK: Teri Berkshire

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- As this case is in relation to writ related criminal case 04C202793, which is assigned to Department 24, this case should also be assigned to Department 24. Pursuant to EDCR 1.31(b)(4) this case is being reassigned to Department 24.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Writ

COURT MINUTES

March 10, 2022

A-18-783689-W Brian O'Keefe, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

March 10, 2022 8:30 AM Motion for Relief

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Lauren Kidd

RECORDER: Vanessa Medina

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- State present via BlueJeans video conferencing.

Court advised the Court reviewed the file and noted that an order was issued; however, Court advised this case should have tracked up to Department 24 along with its corresponding criminal case. Court advised the matter was discussed with Criminal Presiding Judge Jones and it was this Court's understanding that Judge Jones ordered the case reassigned to Department 24. Therefore, COURT ORDERED, matter taken OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Writ

COURT MINUTES

March 17, 2022

A-18-783689-W Brian O'Keefe, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

March 17, 2022 2:30 PM Minute Order

HEARD BY: Ballou, Erika **COURTROOM:** Chambers

COURT CLERK:
Ro'Shell Hurtado

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court having considered all papers and pleadings and determining that no hearing is necessary hereby VACATES the hearing scheduled for March 21, 2022. Petitioner s Motion for Relief from Judgment or Order is hereby DENIED.

In his Motion, Petitioner seeks relief from a court order denying his Petition for Writ of Coram Nobis. Petitioner filed his Petition for Civil Writ of Coram Nobis Pursuant to Nevada Constitution Article 6 Section 6 Based Upon Now Recognized Trusillo vs. State, 310 P.3d 594 (Nev. 2013) on October 30, 2018. The district court denied the petition on December 5, 2018. O Keefe filed a Notice of Appeal on December 24, 2018. The Nevada Court of Appeals affirmed the denial of his petition for coram nobis on September 20, 2019. Remittitur issued February 18, 2020. O Keefe filed a Petition for Review, which the Nevada Supreme Court denied on January 24, 2020. The Court of Appeals held all of O Keefe s claims were waived due to not being raised in a timely matter or outside the scope as they were legal claims and not factual ones, and affirmed the district court's denial of the petition. Petitioner s petition has been heard, decided on its merits, appealed, affirmed, and denied rehearing and this Court cannot, nor would it, overturn the affirmance.

Additionally, Petitioner seeks that this court vacates his illegal sentence if this Court does not

overturn the affirmance. However, Petitioner does not intend to get resentenced, which is what would occur if this Motion was granted. Instead, Petitioner wants this Court to overturn his burglary conviction. A motion to correct a sentence presupposes a valid conviction, therefore, O Keefe s conviction cannot be discredited or vacated in this manner. If O Keefe wishes to file a motion to correct his sentence, he must do so under case number 04C202793, as A-18-783689-W refers to his petition for writ of coram nobis. However, even if O Keefe were to file this motion to vacate an illegal sentence in the original case, it would still be the improper vehicle for the relief he seeks, which is overturning his sentence.

Due to the aforementioned reason, Petitioner s Motion is hereby DENIED. The State is to promptly prepare the order.

CLERK'S NOTE: This Minute Order was electronically filed by Courtroom Clerk, Ro'Shell Hurtado, to all registered parties for Odyssey File & Serve: Mailed to: Brian O'Keefe #90244, 1200 Prison Road, Lovelock, NV, 89419.//rh03.17.22



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

BRIAN K. O'KEEFE #90244
1200 PRISON RD.
LOVELOCK, NV 89419

DATE: April 5, 2022
CASE: A-18-783689-W

RE CASE: BRIAN KERRY O'KEEFE vs. STATE OF NEVADA

NOTICE OF APPEAL FILED: April 4, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☐ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☐ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

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):

(OMNIBUS - NOTICE OF APPEAL); CASE APPEAL STATEMENT;
DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING PETITIONER'S
MOTION FOR RELIEF FROM JUDGMENT; DISTRICT COURT MINUTES; NOTICE OF
DEFICIENCY

BRIAN KERRY O'KEEFE,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),

Case No: A-18-783689-W

Dept No: XXIV

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 5 day of April 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk