

FILED

MAR 28 2022

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Michael Todd Botelho

Appellant,

vs.

STATE OF NV, 2ND JUD. DIST. COURT ETAL  
Respondent.

Supreme Court No. 83996

District Court No. CRD3-2156

AND JUSTICE COURT RCRD3-01149

**APPELLANT'S INFORMAL BRIEF**

**INSTRUCTIONS:** If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, *see* NRAP 28(k), with the Nevada Supreme Court on or before the due date, *see* NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

**HOW TO FILL OUT THIS FORM:** This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

**WHERE TO FILE THE BRIEF:** You may submit your brief for filing in person or by mail.

**To file your brief in person:** Briefs may be submitted for filing Monday through Friday, 8:00 a.m. to 4:00 p.m.

**Carson City:** Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, 89701.

**Las Vegas:** Place your brief in the Clerk's Office Drop Box at the Las Vegas Courthouse for the Nevada Appellate Courts, 408 East Clark Avenue, Las Vegas, Nevada, 89101.

22-09561

**To file your brief by mail:** Mail the brief to the Clerk of the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada 89701. **Your brief must be postmarked on or before the due date.**

You must file the original brief and 1 copy with the clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your brief, you must file the original form and 2 copies and include a self-addressed, stamped envelope. Documents cannot be faxed or emailed to the Supreme Court Clerk's Office.

Copies of the brief must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also include a proper certificate of service or complete the certificate that is attached to the informal brief form.

**CAUTION:** Pro se parties are prohibited from representing other parties. A pro se party may not complete a brief on behalf of other parties. Pro se parties may collaborate on their briefs, however, provided that if one brief is submitted on behalf of multiple pro se parties, each party must sign and date the brief to confirm that he or she has participated in the preparation of the brief and, by his or her signature, joins in the arguments and representations contained therein.



**Judgment or Order You Are Appealing.** List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
12-6-2021	ORDER DENYING (1) DESS MOTION AND (2) APPLICATION

**Notice of Appeal.** Give the date you filed your notice of appeal in the district court: SENT 12-14-21 FILED 12-20-2021

**Related Cases.** List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
RCR03-011479	STATE V. Michael T. Botelho	RENO JUSTICE COURT
RCR03-011479	STATE V. Michael T. Botelho	STAYED IN DIST. COURT

**Pro Bono Counsel.** Would you be interested in having pro bono counsel assigned to represent you in this appeal?

☒ Yes ☐ No

**NOTE:** If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

**Statement of Facts.** Explain the facts of your case. (Your answer must be provided in the space allowed.)

SEPT. 12, 2003, A FELONY COMPLAINT WITH 5 CHARGES, CASE NO. RCR03-011479, WAS FILED IN RENO JUSTICE COURT AGAINST BOTELHO. HE WAS ARRESTED IN CALIF. WITHOUT ARREST WARRANT AND HELD WITHOUT MAGISTRATES COMMITMENT ORDER UNTIL WASHOE COUNTY COPS THEN RE-ARRESTED HIM WITHOUT ASKED FOR WARRANT AND WAS BOOKED INTO COUNTY JAIL WITHOUT WARRANT, NOR COMMITMENT ORDER, AND ASKED FOR APPT OF COUNSEL. HE WAS VIDEO ARRAIGNED AND PRELIM. HEARING WAS SET FOR OCT. 9, 2003. ON OCT. 2, 2003, BOTELHO WAS APPOINTED PUBLIC DEFENDER SEAN SULLIVAN. (BUT ON OCT. 8, 2003, BOTELHO WAS UNLAWFULLY INDICTED ON SAME CHARGES FILED 26 DAYS BEFORE, BY FELONY

COMPLAINT WITH SAME CHARGES DESPITE EXPRESS PREREQUISITE PROCEDURAL DUE PROCESS REQUIREMENTS AND PROTECTIONS AFFORDED BOTELHO. STILL ON OCT. 8, 2003, DIST. JUDGE ADAMS UNLAWFULLY SEIZED SUBJECT-MATTER JURISDICTION AND OF BOTELHO, REGARDING JUSTICE COURT PROCEEDINGS WHEN HE "SUA SPONTE" [STAYED] COMPLAINT PROCEEDINGS. THE JUDGE PREVENTED BOTELHO'S EXPRESSLY REQUIRED, STATUTORY AND CONSTITUTIONAL, PROCEDURAL DUE PROCESS PRELIMINARY HEARING FROM TAKING PLACE. UNLAWFUL ARRAIGNMENT ON BARRED INDICTMENT WITH SAME CHARGES WAS OCT. 23, 2003, DESPITE STILL-PENDING COMPLAINT PROSECUTION WITH SAME CHARGES FILED 42 DAYS BEFORE AND COMPETENCY CONCERNS WERE RAISED AND BOTELHO PLED NOT GUILTY. HE WAS LATER APPROACHED AND THREATENED BY DETECTIVE DENNIS CARRY AND WAS COERCED INTO TAKING AN UNWANTED PLEA AND TOLD TO <sup>↑ KEEP</sup> HIS MOUTH SHUT OR HE WOULD NEVER GET OUT OF PRISON ALIVE! THREE AFFIDAVITS WERE SENT TO A.G., THE STATE, COPS, AND DIST. COURT IN 2019-2021. THEN HIS ALREADY CONFLICTED COUNSEL, "IN CONCERT WITH" A.D.A. VILORIA, LIED TO HIM AND ALSO WITHHELD FROM HIM NV. LAW THAT PROCEDURALLY BARRED THE STATE FROM PROCURING "UNWANTED, COERCED, UNKNOWNING AND UNINTELLIGENTLY GIVEN PLEA WHEN COMPLAINT WITH SAME CHARGES WAS STILL PENDING. ILLEGAL CHANGE OF PLEA WAS DEC. 11, 2003, AND DESPITE COMPETENCY CONCERNS, AND WHERE THE COURT WAS PROCEDURALLY BARRED FROM ACCEPTING PLEA WHERE COMPLAINT WAS STILL-PENDING, A SHAM PERJURED BAD ACTS ACCUSATION WAS MADE AND HEARING WAS 3-11-2004. SENTENCING WAS ILLEGALLY HELD APRIL 4, 2004, DESPITE "PENDING COMPLAINT" WHERE BOTELHO ASKED COUNSEL TO WITHDRAW PLEA BUT FAILED TO DO SO. "AFTER ILLEGAL, PREJUDICIAL SENTENCING," BOLAHIA CHANGED HIS SENTENCE ON COUNT 1 FROM 5-15 YEARS AND INCREASED IT TO 5 TO LIFE, WITHOUT NOTICE, CAUSE, AND DUE PROCESS OF LAW. THE STATE, DIST. COURT, TRIAL, NOR APPELLATE COUNSEL, TOLD BOTELHO HIS COMPLAINT WAS STILL PENDING, NOR THAT HIS PLEA, SENTENCE AND CONVICTION WERE PROCEDURALLY BARRED, NOR THAT SENTENCE WAS ILLEGALLY AND UNCONSTITUTIONALLY INCREASED. APPELLATE COUNSEL FAILED TO ADDRESS THEM ON DIRECT APPEAL. THE STATE, COUNSEL AND DIST. COURT WERE COMPLICIT IN THE BARRED AND PREJUDICIAL ACCEPTANCE OF PLEA, SENTENCE AND CONVICTION DESPITE STILL PENDING COMPLAINT WITH SAME CHARGES.



POLAHU THEN DISREGARDED POST- CONV. HABEAS PETITION REGARDING J.A.C. OF TRIAL AND  
APPELLATE COUNSEL, THE CLAIM THAT HE WANTED TO WITHDRAW PLEA, AND UNCONSTITUTIONAL AND  
UNLAWFUL SENTENCE INCREASE IN SHAM 2006 ORCHASTRATED EVID. HEARING AND DENIED  
RIGHT TO SPEAK AND FURTHER DISREGARDED BY "THIS COURT ITSELF" IN THIS COURTS  
[CAUSED] INCOMPLETE POST- CONV. APPEAL WHERE THIS COURT DENIED CONSTITUTIONAL RIGHT  
TO PRESENT AND EXHAUST ALL CLAIMS. IN 2015 HE FILED MOTION TO VACATE J.A.C FOR FRAUD  
WHERE POLAHU FURTHER OBSTRUCTED JUSTICE RULING AGAINST HIM WITHOUT NEEDED EVID.  
HEARING IN SHAM, VOID ORDER. IN 2017, HE FILED MOTION TO DISMISS COMPLAINT WITH PREJUDICE  
WHERE HE WOULD HAVE BEEN RELEASED. THE J.A.P. SAID DIST. COURT HAD JURISDICTION OF CASE  
BECAUSE DIST. COURT STAYED COMPLAINT SO MOTION WAS TRANSFERRED TO DIST. COURT  
WHERE POLAHU CONFIRMED THAT COMPLAINT WAS STILL PENDING BUT AGAIN REFUSED TO CORRECT  
THE FUNDAMENTAL MISCARRIAGE OF JUSTICE AND DENIED DUE PROCESS OF LAW AND DENIED IT.  
MOTION FOR COUNSEL FOR ABANDONMENT FILED 4-21-2020, AND AGAIN WAS DENIED DUE PROCESS.

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed.)

YET "ANOTHER" MANIFEST AND FUNDAMENTAL MISCARRIAGE OF JUSTICE WAS PERPETRATED UPON  
BOTELHO AND THE DIST. COURT ITSELF BY [THE COURT ITSELF] AND BY THE STATE. THE  
MOTION FOR COUNSEL IN [STILL-PENDING] COMPLAINT PROSECUTION WAS FILED 4-21-2020.  
THE COURT THEN "AGAIN" CHANGED JUDGES AND DEPT. WITHOUT NOTICE OR REASON, AND  
AGAIN VIOLATED BOTELHO'S STATUTORY AND CONSTITUTIONAL, FUNDAMENTAL, PROCEDURAL  
DUE PROCESS OF LAW AND EQUAL PROTECTION RIGHTS WHEN HE SENT REQUEST FOR  
SUBMISSION ON 8-10-2020, AND WAS DISREGARDED BY COURT BECAUSE THE STATE "REFUSED  
TO RESPOND TO MOTION." THE SCIENTER IS PLAIN. THE COURT DENIED HIM FUNDAMENTAL  
PROCEDURAL DUE PROCESS OF LAW FOR 1½ YEARS BEFORE UNLAWFULLY ORDERING STATE TO  
RESPOND TO THE COURTS "ALTERED ACTION" WITH FRAUDULENT NAMED PARTIES, CASE NO. CHANGE,

IN MOTION FOR APPOINTMENT OF COUNSEL IN PENDING COMPLAINT BY CHANGING IT TO  
[POST-CONV.] COUNSEL AND FICTITIOUS MOTION TO CORRECT ILLEGAL SENTENCE THAT HE  
NEVER FILED, REGARDLESS. THE COURT "DID NOT" MAKE AN ERROR, NOR DID THE STATE [.]  
THE COURTS ACTIONS WERE CALCULATED, DELIBERATE AND WILLFULLY PERPETRATED IN BAD FAITH  
AND EQUALLY EXPOSED THE STATES CULPABILITY AND PROPENSITY TO COMMIT FRAUD ON THE  
COURT BY ITS FRAUDULENT MATERIAL MISREPRESENTATIONS MADE IN ITS BAD FAITH  
RESPONSE. THE CONSPIRACY, MALFEASANCE, SCIENTER AND FRAUD UPON THE COURT WERE  
WERE DELIBERATELY ORCHASTRATED AS SUBTERFUGE TO FURTHER OBSTRUCT JUSTICE  
AND FURTHER VIOLATED HIS FUNDAMENTAL PROCEDURAL DUE PROCESS OF LAW AND EQUAL  
PROTECTION RIGHTS. THESE WILLFUL CRIMINAL ACTS AND ACTIONS FURTHERED THE PERVERTED,  
MANIFEST AND FUNDAMENTAL MISCARRIAGE OF JUSTICE [.] THE COURTS BAD FAITH,  
FRAUDULENT VOID ORDER OF DENIAL "NOT ON THE MERITS" EQUALLY VIOLATED THE JUDGES  
SWORN OATH, JUDICIAL CANNONS, NV. LAW, COURT RULES, THE U.S. AND NV. CONSTITUTIONS, HIS  
INALIENABLE, FUNDAMENTAL, PROCEDURAL DUE PROCESS OF LAW AND EQUAL PROTECTION RIGHTS,  
AND FURTHER PREJUDICED BOTELHO BY FORCING HIM TO WAIT ANOTHER 18 MONTHS FOR  
THE COURT TO FINALLY ACT UPON [SINGLE] MOTION FOR COUNSEL, NOT A FICTITIOUS MOTION  
TO CORRECT SENTENCE, FOR THE COURT TO DISPOSE OF MOTION AS LAW AND JUSTICE REQUIRED  
IN 2003 AND STILL IN "2020". THE COURTS BAD FAITH, FRAUDULENT, VOID ORDER DIRECTING  
STATE TO RESPOND AFTER 1 1/2 YEARS EVEN STATED THAT "THE STATE OF NEV. HAS NOT  
FILED A RESPONSE". THE JUDGE KNEW THE STATE FAILED TO MAKE AN AFFIRMATIVE  
DEFENSE AND PER N.R.C.P. 8(c) WAS THEN PROHIBITED FROM DOING SO, LATER! THE  
FRAUDULENT ORDER TO RESPOND THE STATES FRAUDULENT RESPONSE AND THE JUDGES  
FRAUDULENT ORDER OF DENIAL FOR APPOINTMENT OF COUNSEL IN STILL-PENDING COMPLAINT  
PROSECUTION WITH THE SAME CHARGES AMOUNTS TO CRIMES PERPETRATED UPON  
BOTELHO, THE COURT [ITSELF] THE PEOPLE OF WASHOE COUNTY AND THE STATE OF NV.  
THE COURT AGAIN SCREWED BOTELHO IN 2017 WHEN FOLATA CONFIRMED THAT HIS  
FELONY COMPLAINT WAS STILL-PENDING BUT WILLFULLY FAILED VACATE BARRED



INDICTMENT CONVICTION AND FAILED TO DISMISS COMPLAINT AND ALL CHARGES WITH  
PREJUDICE AND ORDER BOTELHO'S IMMEDIATE UNCONDITIONAL RELEASE. JUDGE DRAKULICH  
REVIEWED COURT RECORD AND MOTION FOR COUNSEL AND KNEW THE COURT IN 2017  
CONFIRMED COMPLAINT WAS STILL-PENDING AND BOTELHO'S FACTUAL CLAIMS OF F.A.C.,  
COERCION, FRAUD, LIES AND [ABANDONMENT] WERE CLEARLY MADE IN AVERMENTS IN  
MOTION FOR COUNSEL. SEE HER BOGUS ORDER OF DENIAL WHERE SHE STATES "DUE TO  
THE NATURE OF BOTELHO'S ARGUMENT THE COURT [REFUSES] TO FURTHER ARTICULATE  
THEM, IN OTHER WORDS, COVER IT UP, PROTECT THOSE INVOLVED AND THE FATAL CONVICTION  
RATHER THAN ORDERING NECESSARY EVID. HEARING TO FURTHER DEVELOPE THE FACTS!  
AGAIN, THE JUDGE SHIRKED HER DUTIES AND DISREGARDED STILL-PENDING COMPLAINT  
WITH SAME CHARGES AND LACK OF REQUIRED COUNSEL BECAUSE SHE WOULD BE REQUIRED  
TO RELEASE BOTELHO. SO SHE PRETENDED IT DID NOT EXIST SO SHE WOULD NOT HAVE TO  
CORRECT THE FUNDAMENTAL MISARRIAGE OF JUSTICE. THE COURT IN 2003, UNLAWFULLY  
SEIZED JURISDICTION OF COMPLAINT PROCEEDINGS AND STAYED THEM, POWER THE COURT  
DID NOT POSSESS, NOR HAD [DISCRETION] TO EXERCISE. IN 2021, THE COURT AGAIN FAILED  
TO ACT UPON JURISDICTION THE COURT ITSELF SEIZED. THE 2003 COURT ACTED IN WANT  
OF AND IN EXCESS OF JURISDICTION IT DID NOT POSSESS, OVER COMPLAINT PROCEEDINGS.  
THE COURT IN 2021, SHIRKED ITS DUTIES TO DETERMINE IF 2017 COURT ADMISSION THAT  
COMPLAINT WAS STILL PENDING WITH SAME CHARGES WAS TRUE, AS IT STILL WAS IN 2021.  
DRAKULICH HAD THE DUTY TO APPOINT COUNSEL FOR BOTELHO FOR HIS STILL-PENDING  
[PRE-TRIAL] COMPLAINT PROCEEDINGS SEIZED BY DIST. COURT AND UNLAWFULLY STAYED,  
WHERE HIS TRIAL COUNSEL APPOINTED BY JUSTICE COURT FACTUALLY ABANDONED HIM  
IN STILL-PENDING COMPLAINT PROCEEDINGS, WHERE HIS STATUTORY AND CONSTITUTIONAL,  
FUNDAMENTAL PROCEDURAL DUE PROCESS OF LAW AND EQUAL PROTECTION RIGHTS ARE  
STILL DENIED 18 1/2 YEARS LATER AS WELL AS THE "REQUIRED" REMEDY. THIS IS WHY BOTELHO  
FILED ORIGINAL ACTION AGAINST THE COURT IN 2020, WITH JUSTICE COURT CASE NO., BECAUSE THE  
COMPLAINT JURISDICTION IS IN DIST. COURT AS EVEN THE J.D.P. AND COURT CLERK HAVE

PREVIOUSLY CONFIRMED AS DID J. POLAHA IN 2017. BOTELHO PRAYS FOR THIS COURT TO: (1) BAR  
STATE FROM RESPONDING . N.R.C.P. 8(c), AND FOR ITS FRAUDULENT RESPONSE, MUST NOT  
GET A SECOND BITE; (2) VOID FRAUDULENT ORDER DENYING [NEVER FILED] MOTION(S) FOR  
[POST- CONV.] COUNSEL AND SENTENCE CORRECTION; (3) IMPOSE SANCTIONS FOR VIOLATION'S  
OF OATH, CANNONS, PROFESSIONAL CONDUCT, COURT RULES, AND CRIMINAL ACTIONS BY  
J. DRAKULICH AND A.D.A. MARILEE CATE; (4) APPOINT [TRIAL] COUNSEL FOR HIM IN STILL-  
PENDING FELONY COMPLAINT DUE PROCESS PROCEEDINGS IN [DIST. COURT]; (5) ORDER  
CHANGE OF VENUE TO CARSON COUNTY DUE TO BAD FAITH, BIAS, FRAUD, PREJUDICE AND  
CONSPIRACY BY DIST. COURT AND THE STATE; AND (6) ORDER HIS IMMEDIATE PROCEDURAL  
DUE PROCESS "APPEARANCE IN [DIST. COURT]". WHEREIN, COUNSEL SHALL MOVE TO DISMISS  
ALL CHARGES WITH PREJUDICE IN COMPLAINT THEN MOVE TO VACATE OR SET ASIDE  
PROCEDURALLY BARRED CONVICTION AND HAVE BOTELHO UNCONDITIONALLY RELEASED.  
OTHERWISE, BOTELHO REQUESTS THAT THIS COURT SUA SPONTE DISMISS COMPLAINT AND  
ALL CHARGES WITH PREJUDICE, AND THEN "SET ASIDE BARRED CONVICTION WITH  
PREJUDICE AS LEGAL CONSEQUENCE, AS A MATTER NEVADA LAW SEE NRS 178.562(1).

DATED this 23<sup>RD</sup> day of MARCH, 2022.

Michael T. Botelho  
Signature of Appellant

michael T. Botelho  
Print Name of Appellant



### CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

☐ By personally serving it upon him/her; or

☒ By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

WASHOE CITY DISTRICT ATTORNEY  
ONE SOUTH SIERRA STREET  
RENO, NEV. 89501

DATED this 23<sup>rd</sup> day of MARCH, 2022.

Michael T. Postello

Signature of Appellant

Michael T. Postello

Print Name of Appellant

NNCC P.O. Box 7000

Address

CARSON CITY, NEV. 89702

City/State/Zip

N/A

Telephone