

Steven D. Grierson

1 NOAS
2 Brian O'Keefe # 90244
3 Lovelock Correctional Center
4 1200 Prison Road
5 Lovelock, Nevada 89419

6 Petitioner In Pro Se

Electronically Filed
Aug 01 2022 03:14 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

7 EIGHTH JUDICIAL
8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 * * * * *

11 BRIAN KERRY O'KEEFE,)
12)
13 Petitioner,)
14)
15 -vs-)
16)
17 THE STATE OF NEVADA,)
18)
19 Respondent.)

Case No. 04C202793
Dept. No. XXIV

20 NOTICE OF APPEAL

21 NOTICE IS GIVEN that Petitioner, Brian Kerry O'Keefe,
22 in pro se, hereby appeals to the Nevada Supreme Court the
23 Findings of Fact, Conclusions of Law and Order Denying / NRS 176.555
24 MOTION TO VACATE JUDGMENT - minute order as filed/entered
25 on or about the 5th day of July, 2022, in the above-
26 entitled Court.

27 Dated this 21 day of July, 2022.

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

FN1: See e.g. State v. E.F.D.C.,
100 Nev. 90, 671 P.2d 1044, 1047 (1984)

RECEIVED

490-72 WROFT 26 2022

CLERK OF THE COURT

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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 21 day of July, 2022, by placing same in the U.S. Mail via prison law library staff:

Brian K. O'Keeffe
Brian K. O'Keeffe # 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. 04C202793 does not contain the social security number of any person.

Dated this 21 day of July, 2022.

Brian K. O'Keeffe
Brian K. O'Keeffe
Petitioner In Pro Se

Don O'Keefe #80244
Lowlock Corr. CTR.
1200 Truman Rd.
Lowlock, NV 89419

**INMATE LEGAL
MAIL CONFIDENTIAL**

OUT LEGAL MAIL
7/14/2022 LNO
22/12/2

LCC LAW LIBRARY

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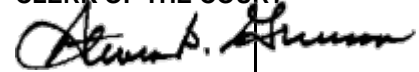
RENO NV 005

22 JUL 2022 PM 3 1

FOREVER / USA

Clerk of Court (Steven Brisson)
200 Lewis Ave., 3rd FL.
Las Vegas NV 89101
ATTN: CONFIDENTIAL

005310158



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 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 BRIAN KERRY O'KEEFE,

14 Defendant(s),
15

Case No: 04C202793

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 #90244
24 1200 Prison Rd.
Lovelock, NV 89419

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 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: No

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: July 6, 2004

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

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 44372, 44644, 48673, 49329, 65040, 66785, 81867,
84511

12. Child Custody or Visitation: N/A

Dated This 28 day of July 2022.

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

CASE SUMMARY**CASE NO. 04C202793****The State of Nevada vs Brian K O'Keefe**

§ Location: **Department 24**
 § Judicial Officer: **Ballou, Erika**
 § Filed on: **07/06/2004**
 § Case Number History:
 § Cross-Reference Case Number: **C202793**
 § Defendant's Scope ID #: **1447732**
 § Lower Court Case # Root: **04F09774**
 § Lower Court Case Number: **04F09774X**
 § Supreme Court No.: **65040**
 § **66785**
 § **84511**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. ASSAULT AND BATTERY	200.400	F	01/01/1900	Case Status: 07/15/2008 Closed	
2. SEXUAL ASSAULT	200.366	F	01/01/1900		
2. SEXUAL ASSUALT	200.364	F	01/01/1900		
3. SEXUAL ASSAULT	200.366	F	01/01/1900		
3. SEXUAL ASSUALT	200.364	F	01/01/1900		
4. SEXUAL ASSAULT	200.366	F	01/01/1900		
4. SEXUAL ASSUALT	200.364	F	01/01/1900		
5. ATTEMPT.	193.330	F	01/01/1900		
5. SEXUAL ASSAULT	200.366	F	01/01/1900		
5. SEXUAL ASSUALT	200.364	F	01/01/1900		
6. BURGLARY.	205.060	F	01/01/1900		

Related Cases

A-18-783689-W (Writ Related Case)

Statistical Closures

01/29/2008	USJR Reporting Statistical Closure
02/05/2007	USJR Reporting Statistical Closure
10/19/2006	USJR Reporting Statistical Closure
07/19/2006	USJR Reporting Statistical Closure
04/04/2006	USJR Reporting Statistical Closure
02/10/2005	USJR Reporting Statistical Closure
07/15/2008	USJR Reporting Statistical Closure
04/12/2006	USJR Reporting Statistical Closure
03/05/2005	USJR Reporting Statistical Closure
01/27/2006	USJR Reporting Statistical Closure

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number	04C202793
Court	Department 24
Date Assigned	01/04/2021
Judicial Officer	Ballou, Erika

PARTY INFORMATION

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













CASE SUMMARY**CASE No. 04C202793**

EVENTS & ORDERS OF THE COURT












DATE

INDEX

EVENTS
















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07/19/2004	 Notice of Motion [5] Notice of Motion and Motion to Admit Evidence of Other Crimes	Index #5
07/19/2004	 Notice of Expert Witnesses [6] Notice of Expert Witnesses [NRS 174.234 (2)]	Index #6
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08/10/2004	 Notice of Expert Witnesses [8] Notice of Expert Witnesses [NRS 174.234 (2)]	Index #8
08/31/2004	 Opposition to Motion Filed By: Defendant O'Keefe, Brian K [10] Opposition to Motion to Admit Evidence of Other Crimes	Index #10
08/31/2004	 Notice of Witnesses Party: Defendant O'Keefe, Brian K [11] Defendant's Notice of Witnesses, pursuant to NRS 174.234	Index #11
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10/18/2004	 Certificate of Facsimile [14] Certificate of Facsimile Transmission	Index #14
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CASE SUMMARY**CASE No. 04C202793**

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10/25/2004	 Jury List [21]	Index #21
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10/28/2004	 Receipt of Copy [23]	Index #23
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10/28/2004	 Verdict [25]	Index #25
10/28/2004	 Proposed Jury Instructions Not Used At Trial [26]	Index #26
11/24/2004	Hearing [27] STATE'S REQUEST REMAND TO CUSTODY FOR SENTENCING	Index #27
12/03/2004	 Notice of Appeal (Criminal) Party: Defendant O'Keefe, Brian K [28] Notice of Appeal	Index #28
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12/09/2004	 PSI [106] Pre-Sentence Investigation Report (Unfiled) Confidential	Index #106
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01/03/2005	Judgment [31] GENETIC TESTING FEE	Index #31
01/03/2005	 Judgment of Conviction [32] Judgment of Conviction (Jury Trial)	Index #32
		Index #33















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02/07/2005	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[36] Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>	<i>Index #36</i>
02/11/2005	 Motion <i>[37] Motion to Proceed in Forma Pauperis</i>	<i>Index #37</i>
02/11/2005	 Receipt of Copy Filed by: Defendant O'Keefe, Brian K <i>[38]</i>	<i>Index #38</i>
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03/03/2005	 Request Filed by: Defendant O'Keefe, Brian K <i>[41] Request for Rough Draft Transcript</i>	<i>Index #41</i>
04/05/2005	 Reporters Transcript <i>[42] Transcript of Hearing Held on December 27, 2004</i>	<i>Index #42</i>
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CASE SUMMARY

CASE NO. 04C202793

06/15/2005	 Request Filed by: Defendant O'Keefe, Brian K <i>[49] Request for Rough Draft Transcript</i>	
07/20/2005	 Order Admitting Defendant to Probation & Fixing Terms <i>[50] Order Admitting Defendant to Probation and Fixing the Terms Thereof</i>	Index #50
12/12/2005	 Motion <i>[51] Motion to Discharge Counsel of Appointment</i>	Index #51
12/21/2005	 Motion for Clarification <i>[52] Motion for Sentence Clarification</i>	Index #52
12/30/2005	Motion <i>[53] ALL PENDING MOTIONS (12/28/05)</i>	Index #53
02/22/2006	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>[54] Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>	Index #54
02/27/2006	 Motion <i>[55] Motion to Discharge Counsel</i>	Index #55
03/15/2006	 Affidavit Filed By: Defendant O'Keefe, Brian K <i>[56] Affidavit of Delivery</i>	Index #56
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06/27/2006	 Motion to Produce Filed By: Defendant O'Keefe, Brian K <i>[59] Proper Person Motion to Produce</i>	Index #59
06/28/2006	 Demand for Prior Discovery Filed By: Defendant O'Keefe, Brian K <i>[60] Proper Person Demand for Prior Discovery</i>	Index #60
07/03/2006	 Request Filed by: Defendant O'Keefe, Brian K <i>[61] Request for Rough Draft Transcript</i>	Index #61
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07/19/2006	 Petition for Writ of Mandamus <i>[63] Proper - Person Petition for Writ of Mandamus</i>	Index #63
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CASE SUMMARY

CASE NO. 04C202793

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11/14/2006	 Opposition to Motion <i>[71] Opposition to Defenant's Motion for New Trial</i>	Index #71
11/17/2006	 Order for Production of Inmate <i>[72] Order for Production of Inmate Brian Kerry O'Keefe, BAC # 90244</i>	Index #72
11/25/2006	 Notice of Change of Address <i>[73]</i>	Index #73
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12/13/2006	 Supplement Filed by: Defendant O'Keefe, Brian K <i>[76] Supplement [to Motion for a New Trial Based on New Evidence]</i>	Index #76
12/26/2006	 Notice of Appeal (Criminal) Party: Defendant O'Keefe, Brian K <i>[77] Notice of Appeal</i>	Index #77
12/27/2006	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K <i>[78]</i>	Index #78
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CASE SUMMARY

CASE NO. 04C202793












	<i>[80] Petition for Writ of Habeas Corpus (Post Conviction)</i>	
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04/06/2007	 Opposition <i>[84] State's Opposition to Defendant's Petition for Writ of Habeas Corpus</i>	Index #84
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02/19/2008	 Reporters Transcript <i>[91] Transcript of Hearing Held on October 25, 2004</i>	Index #91
04/21/2008	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>[92] Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>	Index #92
04/21/2008	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>[93] Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>	Index #93
09/10/2008	 Petition <i>[94]</i>	Index #94
10/17/2012	 Order for Disposal of Exhibits <i>[95]</i>	Index #95
12/06/2013	 Petition for Writ of Mandamus Filed by: Defendant O'Keefe, Brian K <i>[96] Petition for a Writ of Mandamus or, in the Alternative, Writ of Coram Nobis</i>	Index #96

CASE SUMMARY

CASE NO. 04C202793

12/06/2013	 Notice of Motion Filed By: Defendant O'Keefe, Brian K [97]	Index #97
12/06/2013	 Ex Parte Motion Filed By: Defendant O'Keefe, Brian K [98] (Ex Parte) Motion to Appoint Counsel	Index #98
12/06/2013	 Notice of Motion Filed By: Defendant O'Keefe, Brian K [99] Notice of Motion Motion to Waive Filing Fees for Petition for Writ of Mandamus	Index #99
12/06/2013	 Notice of Change of Hearing [100]	Index #100
12/13/2013	 Motion Filed By: Defendant O'Keefe, Brian K [101] Motion for Erratum, to Petition for a Writ of Mandamus or, in the Alternative, Writ of Coram Nobis (Mailed November 24, 2013)	Index #101
12/18/2013	 Response Filed by: Plaintiff State of Nevada [102] 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	Index #102
12/19/2013	 Motion Filed By: Defendant O'Keefe, Brian K [103] Motion To Supplement Petition For A Writ Of Mandamus Or, In The Alternative, Writ of Coram Nobis With A Certified Copy of J.O.C To C202793	Index #103
12/27/2013	 Supplement Filed by: Defendant O'Keefe, Brian K [104] Supplement of Evidence of Suicides and Self Mutilations and Mental Health Along with Ninth COA on, Namely, A Double Jeopardy Violation, Case No. 12-15271	Index #104
12/27/2013	 Notice of Motion Filed By: Defendant O'Keefe, Brian K [105]	Index #105
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01/10/2014	 Motion Filed By: Defendant O'Keefe, Brian K [109] Motion for Default Judgment for State's Failure to Exercise Simple Reasonable Due Diligence to "Serve" Petitioner Copy of Opposition in "Conjunction" with "Filing" with Emphasis on A.G.O. No 2002-15 (March 21, 2002)	Index #109
01/28/2014	 Notice of Motion Filed By: Defendant O'Keefe, Brian K	Index #110

CASE SUMMARY**CASE NO. 04C202793**

	[110]	
01/28/2014	 Reply Filed by: Defendant O'Keefe, Brian K <i>[111] Reply to State's Response to Defendant's Petition for a Writ of Mandamus or, in the Alternative, Writ of (Error) Coram Nobis with Affidavit Attached Manifesting Exhibits A,B,C,D to Affidavit.</i>	Index #111
01/30/2014	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>[112] State's Opposition to Defendant's Motion for Default Judgment</i>	Index #112
02/12/2014	 Notice of Appeal (Criminal) Party: Defendant O'Keefe, Brian K <i>[113] Notice of Appeal</i>	Index #113
02/13/2014	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K <i>[114]</i>	Index #114
02/14/2014	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>[115] Order Denying Deft's Pro Per (Ex Parte) Motion to Appoint Counsel and Deft's Pro Per Petition for a Writ of Mandamus or, in the Alternative, Writ of Coram Nobis and Deft's Pro Per Motion to Waive Filing Fees for Petition for Writ of Mandamus and Deft's Pro Per Motion to Supplement Petition for a Writ of Mandamus or, in the Alternative, Writ of Coram Nobis with a Certified Copy of J.O.C. to C202793 and Deft's Pro Per Supplement of Evidence of Suicides and Self Mutilations and Mental Health along with Ninth COA on Namely, a Double Jeopardy Violation, Case No - 12- 15271</i>	Index #115
02/14/2014	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>[116] Order Denying Defendant's Pro Per Motion for Default Judgment for State's Failure to Exercise Simple Reasonable Due Diligence to "Serve" Petitioner Copy of Opposition in "Conjunction" with "Filing" with Emphasis on A.G.O. No 2005-15 (March 21, 2002</i>	Index #116
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06/06/2014	 Notice of Change of Address Filed By: Defendant O'Keefe, Brian K <i>[118] Notice of Change of Address</i>	Index #118
09/22/2014	 Notice of Motion Filed By: Defendant O'Keefe, Brian K <i>[120] Notice of Motion (Petition)</i>	Index #120
09/22/2014	 Motion Filed By: Defendant O'Keefe, Brian K <i>[119] Motion for Appointment of Counsel</i>	Index #119
09/30/2014	 Notice Filed By: Defendant O'Keefe, Brian K <i>[121] Notice of Petition and Petition for Writ of Coram Nobis Based on Acquittal of all Felonies which Underpinned Count 6 Burglary Thereby Court in Want of Jurisdiction with New Sentencing Judge Lacking This Knowledge and Fact</i>	Index #121







CASE SUMMARY

CASE NO. 04C202793

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10/20/2014	 Response Filed by: Plaintiff State of Nevada <i>[123] State's Response to Defendants Petition for Writ of Coram Nobis Based on Acquittal of All Felonies Which Underpinned Count 6 Burglary Thereby Court in Want of Jurisdiction with New Sentencing Judge Lacking this Knowledge and Fact</i>	Index #123
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10/27/2014	 Case Appeal Statement Filed By: Defendant O'Keefe, Brian K <i>[125] Case Appeal Statement</i>	Index #125
10/29/2014	 Order Filed By: Plaintiff State of Nevada <i>[126] Order Denying Defendant's Motion for Appointment of Counsel</i>	Index #126
12/11/2014	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>[127] Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>	Index #127
01/06/2015	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[128] Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>	Index #128
09/24/2019	 Notice of Change of Address Filed By: Defendant O'Keefe, Brian K <i>[129] Notice of Change of Address</i>	Index #129
11/19/2019	 Notice of Change of Address Filed By: Defendant O'Keefe, Brian K <i>[130] Notice of Change of Address</i>	Index #130
03/04/2020	 Request Filed by: Defendant O'Keefe, Brian K <i>[131] Request for Submission of Motion</i>	Index #131
01/04/2021	Case Reassigned to Department 24 <i>Judicial Reassignment to Judge Erika D. Ballou</i>	
04/04/2022	 Notice of Appeal (Criminal) Party: Defendant O'Keefe, Brian K <i>[132] Notice of Appeal</i>	Index #132
04/05/2022	 Case Appeal Statement <i>[133] Case Appeal Statement</i>	Index #133
06/10/2022	 Motion to Vacate Filed By: Defendant O'Keefe, Brian K <i>[134] Motion to Vacate Judgment</i>	Index #134

CASE SUMMARY

CASE No. 04C202793

06/10/2022	 Notice of Motion Filed By: Defendant O'Keefe, Brian K [135]	Index #135
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07/13/2022	 Order [138] Order Denying Defendant's Motion to Vacate Judgment	Index #138
07/27/2022	 Notice of Appeal (Criminal) [139] Notice of Appeal	Index #139
07/28/2022	 Case Appeal Statement Case Appeal Statement	Index #140
<u>DISPOSITIONS</u>		
01/01/1900	Plea (Judicial Officer: User, Conversion) 1. ASSAULT AND BATTERY Not Guilty PCN: Sequence:	
01/01/1900	Plea (Judicial Officer: User, Conversion) 2. SEXUAL ASSAULT Not Guilty PCN: Sequence:	
01/01/1900	Plea (Judicial Officer: User, Conversion) 2. SEXUAL ASSAULT Not Guilty PCN: Sequence:	
01/01/1900	Plea (Judicial Officer: User, Conversion) 3. SEXUAL ASSAULT Not Guilty PCN: Sequence:	
01/01/1900	Plea (Judicial Officer: User, Conversion) 3. SEXUAL ASSAULT Not Guilty PCN: Sequence:	
01/01/1900	Plea (Judicial Officer: User, Conversion) 4. SEXUAL ASSAULT Not Guilty PCN: Sequence:	
01/01/1900	Plea (Judicial Officer: User, Conversion)	

CASE SUMMARY

CASE NO. 04C202793

	4. SEXUAL ASSUALT Not Guilty PCN: Sequence:
01/01/1900	Plea (Judicial Officer: User, Conversion) 5. ATTEMPT. Not Guilty PCN: Sequence:
01/01/1900	Plea (Judicial Officer: User, Conversion) 5. SEXUAL ASSAULT Not Guilty PCN: Sequence:
01/01/1900	Plea (Judicial Officer: User, Conversion) 5. SEXUAL ASSUALT Not Guilty PCN: Sequence:
01/01/1900	Plea (Judicial Officer: User, Conversion) 6. BURGLARY. Not Guilty PCN: Sequence:
10/28/2004	Disposition (Judicial Officer: User, Conversion) 2. SEXUAL ASSAULT Not Guilty PCN: Sequence:
10/28/2004	Disposition (Judicial Officer: User, Conversion) 2. SEXUAL ASSUALT Not Guilty PCN: Sequence:
10/28/2004	Disposition (Judicial Officer: User, Conversion) 3. SEXUAL ASSAULT Not Guilty PCN: Sequence:
10/28/2004	Disposition (Judicial Officer: User, Conversion) 3. SEXUAL ASSUALT Not Guilty PCN: Sequence:
10/28/2004	Disposition (Judicial Officer: User, Conversion) 4. SEXUAL ASSAULT Not Guilty PCN: Sequence:
10/28/2004	Disposition (Judicial Officer: User, Conversion) 4. SEXUAL ASSUALT

CASE SUMMARY

CASE NO. 04C202793

	Not Guilty PCN: Sequence:
10/28/2004	Disposition (Judicial Officer: User, Conversion) 5. ATTEMPT. Not Guilty PCN: Sequence:
10/28/2004	Disposition (Judicial Officer: User, Conversion) 5. SEXUAL ASSAULT Not Guilty PCN: Sequence:
10/28/2004	Disposition (Judicial Officer: User, Conversion) 5. SEXUAL ASSAULT Not Guilty PCN: Sequence:
12/27/2004	Disposition (Judicial Officer: User, Conversion) 1. ASSAULT AND BATTERY Guilty PCN: Sequence:
12/27/2004	Disposition (Judicial Officer: User, Conversion)
12/27/2004	Disposition (Judicial Officer: User, Conversion) 6. BURGLARY. Guilty PCN: Sequence:
12/27/2004	Disposition (Judicial Officer: User, Conversion)
12/27/2004	Adult Adjudication (Judicial Officer: User, Conversion) 1. ASSAULT AND BATTERY 01/01/1900 (F) 200.400 (200.400) PCN: Sequence:
	Converted Disposition: Sentence# 0001: CREDIT FOR TIME SERVED
12/27/2004	Adult Adjudication (Judicial Officer: User, Conversion) 6. BURGLARY. 01/01/1900 (F) 205.060 (205.060) PCN: Sequence:
	Converted Disposition: Sentence# 0001: SUSPENDED Minimum 24 Months to Maximum 120 Months Placement: NSP Converted Disposition: Sentence# 0002: PROBATION WITH CONDITIONS Minimum 5 Years to Maximum 5 Years Converted Disposition: Sentence# 0003: COUNSELING PROGRAM Converted Disposition: Sentence# 0004: DNA FEE/GENETIC MARKERS ANALYSIS

CASE SUMMARY

CASE NO. 04C202793

Amount: \$150.00
 Converted Disposition:
 Sentence# 0005: ADMINISTRATION FEE
 Amount: \$25.00

HEARINGS

07/13/2004

Initial Arraignment (9:00 AM)

Events: 07/06/2004 Hearing
*INITIAL ARRAIGNMENT Court Clerk: Georgette Byrd Reporter/Recorder: Dick Kangas
 Heard By: Jackie Glass*

MINUTES

Hearing
[2] INITIAL ARRAIGNMENT
 Matter Heard; INITIAL ARRAIGNMENT Court Clerk: Georgette Byrd Reporter/Recorder:
 Dick Kangas Heard By: Jackie Glass

Index #2

08/31/2004

Calendar Call (9:00 AM)

*CALENDAR CALL Court Clerk: Georgette Byrd Reporter/Recorder: Dick Kangas Heard By:
 Glass, Jackie*
 Matter Continued; CALENDAR CALL Court Clerk: Georgette Byrd Reporter/Recorder: Dick
 Kangas Heard By: Glass, Jackie

09/02/2004

Calendar Call (9:00 AM)

*CALENDAR CALL Court Clerk: Georgette Byrd Reporter/Recorder: Dick Kangas Heard By:
 Jackie Glass*
 Matter Heard; CALENDAR CALL Court Clerk: Georgette Byrd Reporter/Recorder: Dick
 Kangas Heard By: Jackie Glass

09/07/2004

CANCELED Jury Trial (10:00 AM)

Vacated

09/09/2004

Status Check (9:00 AM)

Events: 09/02/2004 Hearing
*STATUS CHECK: TRIAL SETTING Court Clerk: Georgette Byrd Reporter/Recorder: Dick
 Kangas Heard By: Jackie Glass*
 Matter Heard; STATUS CHECK: TRIAL SETTING Court Clerk: Georgette Byrd
 Reporter/Recorder: Dick Kangas Heard By: Jackie Glass

09/24/2004

Conversion Hearing Type (9:00 AM)

Events: 09/09/2004 Hearing
PETROCELLI HEARING Heard By: Jackie Glass

10/08/2004

Conversion Hearing Type (9:00 AM)

*PETROCELLI HEARING Court Clerk: Georgette Byrd Reporter/Recorder: Dick Kangas
 Heard By: Jackie Glass*
 Matter Heard; PETROCELLI HEARING Court Clerk: Georgette Byrd Reporter/Recorder:
 Dick Kangas Heard By: Jackie Glass

10/19/2004

Calendar Call (9:00 AM)

*CALENDAR CALL Court Clerk: Georgette Byrd Reporter/Recorder: Dick Kangas Heard By:
 Jackie Glass*
 Matter Heard; CALENDAR CALL Court Clerk: Georgette Byrd Reporter/Recorder: Dick
 Kangas Heard By: Jackie Glass

10/22/2004

CANCELED Overflow (9:00 AM)

Vacated

10/22/2004

Minute Order (9:30 AM)

*MINUTE ORDER RE: OVERFLOW (V) Relief Clerk: Carole D'Aloia Reporter/Recorder:
 Diann Prock Heard By: Stewart Bell*

Matter Heard; MINUTE ORDER RE: OVERFLOW (V) Relief Clerk: Carole D'Aloia

CASE SUMMARY

CASE NO. 04C202793

Reporter/Recorder: Diann Prock Heard By: Stewart Bell

10/22/2004	All Pending Motions (9:31 AM) <i>MINUTE ORDER RE: TRIAL GOING TO DEPT 15 Court Clerk: Georgette Byrd</i> <i>Reporter/Recorder: Dick Kangas Heard By: Jackie Glass</i> Matter Heard; MINUTE ORDER RE: TRIAL GOING TO DEPT 15 Court Clerk: Georgette Byrd <i>Reporter/Recorder: Dick Kangas Heard By: Jackie Glass</i>
10/25/2004	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>
10/25/2004	Jury Trial (1:30 PM) <i>TRIAL BY JURY Court Clerk: Theresa Lee Reporter/Recorder: Lisa Makowski Heard By: Loehrer, Sally</i> Matter Continued; TRIAL BY JURY Court Clerk: Theresa Lee Reporter/Recorder: Lisa Makowski Heard By: Loehrer, Sally
10/26/2004	Status Check (9:00 AM) Events: 10/22/2004 Hearing <i>STATUS CHECK: TRIAL SETTING/BACK FROM OVERFLOW Court Clerk: Georgette Byrd</i> <i>Reporter/Recorder: Dick Kangas Heard By: Jackie Glass</i> Off Calendar; STATUS CHECK: TRIAL SETTING/BACK FROM OVERFLOW Court Clerk: Georgette Byrd <i>Reporter/Recorder: Dick Kangas Heard By: Jackie Glass</i>
10/26/2004	Jury Trial (10:30 AM) <i>TRIAL BY JURY Court Clerk: Theresa Lee Reporter/Recorder: Lisa Makowski Heard By: Loehrer, Sally</i> Matter Continued; TRIAL BY JURY Court Clerk: Theresa Lee Reporter/Recorder: Lisa Makowski Heard By: Loehrer, Sally
10/27/2004	Jury Trial (8:30 AM) <i>TRIAL BY JURY Court Clerk: Theresa Lee Reporter/Recorder: Lisa Makowski Heard By: Loehrer, Sally</i> Matter Continued; TRIAL BY JURY Court Clerk: Theresa Lee Reporter/Recorder: Lisa Makowski Heard By: Loehrer, Sally
10/28/2004	Jury Trial (8:30 AM) <i>TRIAL BY JURY Court Clerk: Theresa Lee Reporter/Recorder: Lisa Makowski Heard By: Sally Loehrer</i> Matter Heard; TRIAL BY JURY Court Clerk: Theresa Lee Reporter/Recorder: Lisa Makowski Heard By: Sally Loehrer
11/30/2004	Request (8:30 AM) Events: 11/24/2004 Hearing <i>STATE'S REQUEST REMAND TO CUSTODY FOR SENTENCING Heard By: Sally Loehrer</i>
12/01/2004	Request (8:30 AM) <i>STATE'S REQUEST REMAND TO CUSTODY FOR SENTENCING Court Clerk: Theresa Lee Reporter/Recorder: Lisa Makowski Heard By: Sally Loehrer</i> Matter Heard; STATE'S REQUEST REMAND TO CUSTODY FOR SENTENCING Court Clerk: Theresa Lee Reporter/Recorder: Lisa Makowski Heard By: Sally Loehrer
12/27/2004	Sentencing (8:30 AM) Events: 10/28/2004 Conversion Case Event Type <i>SENTENCING Court Clerk: Theresa Lee Reporter/Recorder: Cheryl Gardner Heard By: Stewart Bell</i> Granted; SENTENCING Court Clerk: Theresa Lee Reporter/Recorder: Cheryl Gardner Heard By: Stewart Bell
02/23/2005	Motion (8:30 AM) Events: 02/11/2005 Motion <i>DEFT'S MTN TO PROCEED IN FORMA PAUPERIS/16 Relief Clerk: Carole D'Aloia</i>

CASE SUMMARY


CASE No. 04C202793

Reporter/Recorder: Lisa Makowski Heard By: Sally Loehrer
Granted; DEFT'S MTN TO PROCEED IN FORMA PAUPERIS/16 Relief Clerk: Carole D'Aloia Reporter/Recorder: Lisa Makowski Heard By: Sally Loehrer

12/28/2005	Motion (8:30 AM) Events: 12/12/2005 Motion DEFT'S PRO PER MTN TO DISCHARGE COUNSEL OF APPOINTMENT /17 Heard By: Sally Loehrer
12/28/2005	Motion to Clarify (8:30 AM) Events: 12/21/2005 Motion for Clarification DEFT'S PRO PER MTN TO CLARIFY /18 Heard By: Sally Loehrer
12/28/2005	All Pending Motions (8:30 AM) ALL PENDING MOTIONS (12/28/05) Court Clerk: Theresa Lee Reporter/Recorder: Sharon Howard Heard By: Sally Loehrer Matter Heard; ALL PENDING MOTIONS (12/28/05) Court Clerk: Theresa Lee Reporter/Recorder: Sharon Howard Heard By: Sally Loehrer
03/13/2006	Motion (8:30 AM) Events: 02/27/2006 Motion DEFT'S PRO PER MTN TO DISCHARGE COUNSEL /20 Court Clerk: Jennifer Kimmel Reporter/Recorder: Sharon Howard Heard By: Sally Loehrer Granted; DEFT'S PRO PER MTN TO DISCHARGE COUNSEL /20 Court Clerk: Jennifer Kimmel Reporter/Recorder: Sharon Howard Heard By: Sally Loehrer
04/12/2006	CANCELED Request of Court (8:30 AM) Events: 04/05/2006 Hearing Vacated - Set in Error Matter Heard;
07/03/2006	Motion to Compel (8:30 AM) Events: 06/12/2006 Motion to Compel DEFT'S PRO PER MOTION TO COMPEL/22 Court Clerk: Jennifer Kimmel Reporter/Recorder: Sharon Howard Heard By: Loehrer, Sally Matter Continued; DEFT'S PRO PER MOTION TO COMPEL/22 Court Clerk: Jennifer Kimmel Reporter/Recorder: Sharon Howard Heard By: Loehrer, Sally
07/05/2006	Motion to Compel (8:30 AM) DEFT'S PRO PER MOTION TO COMPEL/22 Court Clerk: Jennifer Kimmel Reporter/Recorder: Sharon Howard Heard By: Sally Loehrer Matter Continued; DEFT'S PRO PER MOTION TO COMPEL/22 Court Clerk: Jennifer Kimmel Reporter/Recorder: Sharon Howard Heard By: Sally Loehrer
08/14/2006	Petition for Writ of Mandamus (8:30 AM) Events: 07/19/2006 Petition for Writ of Mandamus DEFT'S PRO PER PTN FOR WRIT OF MANDAMUS /23 Heard By: Sally Loehrer
08/14/2006	Motion (8:30 AM) Events: 07/20/2006 Motion DEFT'S PRO PER MTN FOR TRANSCRIPTS AT STATE EXPENSE /24 Heard By: Sally Loehrer
08/14/2006	Petition for Writ of Mandamus (8:30 AM) Events: 07/24/2006 Petition for Writ of Mandamus DEFT'S PRO PER PETITION FOR WRIT OF MANDAMUS /25 Heard By: Sally Loehrer
08/14/2006	All Pending Motions (8:30 AM) ALL PENDING MOTIONS - 8/14/06 Court Clerk: Jennifer Kimmel/jk Relief Clerk: Phyllis Irby Reporter/Recorder: Sharon Howard Heard By: Sally Loehrer Matter Heard; ALL PENDING MOTIONS - 8/14/06 Court Clerk: Jennifer Kimmel/jk Relief Clerk: Phyllis Irby Reporter/Recorder: Sharon Howard Heard By: Sally Loehrer

CASE SUMMARY



CASE No. 04C202793

10/30/2006	<p>Motion (8:30 AM) Events: 10/19/2006 Motion for New Trial DEFT'S PRO PER MOTION FOR A NEW TRIAL BASED ON NEW EVIDENCE/27 Court Clerk: Jennifer Kimmel Reporter/Recorder: Mary Beth Cook Heard By: Loehrer, Sally Matter Continued; DEFT'S PRO PER MOTION FOR A NEW TRIAL BASED ON NEW EVIDENCE/27 Court Clerk: Jennifer Kimmel Reporter/Recorder: Mary Beth Cook Heard By: Loehrer, Sally</p>
11/13/2006	<p>Motion (8:30 AM) DEFT'S PRO PER MOTION FOR A NEW TRIAL BASED ON NEW EVIDENCE/27 Court Clerk: Jennifer Kimmel Reporter/Recorder: Mary Beth Cook Heard By: Loehrer, Sally Matter Continued; DEFT'S PRO PER MOTION FOR A NEW TRIAL BASED ON NEW EVIDENCE/27 Court Clerk: Jennifer Kimmel Reporter/Recorder: Mary Beth Cook Heard By: Loehrer, Sally</p>
12/04/2006	<p>Motion (8:30 AM) DEFT'S PRO PER MOTION FOR A NEW TRIAL BASED ON NEW EVIDENCE/27 Court Clerk: Jennifer Kimmel Reporter/Recorder: Mary Beth Cook Heard By: Loehrer, Sally Matter Continued; DEFT'S PRO PER MOTION FOR A NEW TRIAL BASED ON NEW EVIDENCE/27 Court Clerk: Jennifer Kimmel Reporter/Recorder: Mary Beth Cook Heard By: Loehrer, Sally</p>
12/18/2006	<p>Motion (8:30 AM) DEFT'S PRO PER MOTION FOR A NEW TRIAL BASED ON NEW EVIDENCE/27 Court Clerk: Jennifer Kimmel Reporter/Recorder: Mary Beth Cook Heard By: Sally Loehrer Denied; DEFT'S PRO PER MOTION FOR A NEW TRIAL BASED ON NEW EVIDENCE/27 Court Clerk: Jennifer Kimmel Reporter/Recorder: Mary Beth Cook Heard By: Sally Loehrer</p>
04/11/2007	<p>Petition for Writ of Habeas Corpus (8:30 AM) Events: 02/05/2007 Petition for Writ of Habeas Corpus PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Tia Everett/te Relief Clerk: Melissa Swinn Reporter/Recorder: Mary Beth Cook Heard By: Sally Loehrer</p> <p>MINUTES</p> <p> Petition for Writ of Habeas Corpus</p> <p>[80] Petition for Writ of Habeas Corpus (Post Conviction) Denied; PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Tia Everett/te Relief Clerk: Melissa Swinn Reporter/Recorder: Mary Beth Cook Heard By: Sally Loehrer</p>
01/08/2014	<p>CANCELED Motion (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Vacated</i> <i>Motion for Erratum, to Petition for a Writ of Mandamus or, in the Alternative, Writ of Coram Nobis (Mailed November 24, 2013)</i></p>
01/13/2014	<p>Petition for Writ of Mandamus (9:30 AM) (Judicial Officer: Miley, Stefany) 01/13/2014, 01/29/2014 <i>Defendant's Pro Per Petition for a Writ of Mandamus or, in the Alternative, Writ of Coram Nobis</i> Matter Continued; Motion Denied; Matter Continued; Motion Denied;</p>
01/13/2014	<p>Motion for Appointment of Attorney (9:30 AM) (Judicial Officer: Miley, Stefany) 01/13/2014, 01/29/2014 <i>Defendant's Pro Per (Ex Parte) Motion to Appoint Counsel</i> Matter Continued; Motion Denied; Matter Continued; Motion Denied;</p>

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CASE SUMMARY

CASE NO. 04C202793

01/13/2014	<p>Petition to Proceed in Forma Pauperis (9:30 AM) (Judicial Officer: Miley, Stefany) 01/13/2014, 01/29/2014 <i>Defendant's Pro Per Motion to Waive Filing Fees for Petition for Writ of Mandamus</i> Matter Continued; Motion Denied; Matter Continued; Motion Denied;</p>
01/13/2014	<p>Motion (9:30 AM) (Judicial Officer: Miley, Stefany) 01/13/2014, 01/29/2014 <i>Defendant's Pro Per Motion To Supplement Petition For A Writ Of Mandamus Or, In The Alternative, Writ of Coram Nobis With A Certified Copy of J.O.C To C202793</i> Matter Continued; Motion Denied; Matter Continued; Motion Denied;</p>
01/13/2014	<p>Motion (9:30 AM) (Judicial Officer: Miley, Stefany) 01/13/2014, 01/29/2014 <i>Defendant's Pro Per Supplement of Evidence of Suicides and Self Mutilation and Mental Health Along with Ninth COA on, Namely, A Double Jeopardy Violation, Case 12-15271</i> Matter Continued; Motion Denied; Matter Continued; Motion Denied;</p>
01/13/2014	<p> All Pending Motions (9:30 AM) (Judicial Officer: Miley, Stefany) Matter Heard; Journal Entry Details: <i>DEFT'S PRO PER (EX PARTE) MOTION TO APPOINT COUNSEL...DEFT'S PRO PER PETITION FOR A WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORAM NOBIS...DEFT'S PRO PER MOTION TO WAIVE FILING FEES FOR PETITION FOR WRIT OF MANDAMUS...DEFT'S PRO PER MOTION TO SUPPLEMENT PETITION FOR A WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORUM NOBIS WITH A CERTIFIED COPY OF J.O.C. TO C202793...DEFT'S PRO PER SUPPLEMENT OF EVIDENCE OF SUICIDES AND SELF MUTILATIONS AND MENTAL HEALTH ALONG WITH NINTH COA ON NAMELY, A DOUBLE JEOPARDY VIOLATION, CASE NO - 12-15271 COURT ORDERED, matter CONTINUED as the JAVS system is malfunctioning. NDC CONTINUED TO: 1/29/14 9:30 AM CLERK'S NOTE: A copy of this Minute Order was placed in the District Attorney folder and mailed to Deft. at: Brian O'Keefe #90244 HDSP P.O. Box 650 Indian Springs, NV 89018. anm/1/13/14 ;</i></p>
01/29/2014	<p> All Pending Motions (9:30 AM) (Judicial Officer: Miley, Stefany) Matter Heard; Journal Entry Details: <i>Gwynneth Smith, Deputy District Attorney, present for the State of Nevada. DEFT'S PRO PER (EX PARTE) MOTION TO APPOINT COUNSEL...DEFT'S PRO PER PETITION FOR A WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORAM NOBIS...DEFT'S PRO PER MOTION TO WAIVE FILING FEES FOR PETITION FOR WRIT OF MANDAMUS...DEFT'S PRO PER MOTION TO SUPPLEMENT PETITION FOR A WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORUM NOBIS WITH A CERTIFIED COPY OF J.O.C. TO C202793...DEFT'S PRO PER SUPPLEMENT OF EVIDENCE OF SUICIDES AND SELF MUTILATIONS AND MENTAL HEALTH ALONG WITH NINTH COA ON NAMELY, A DOUBLE JEOPARDY VIOLATION, CASE NO - 12-15271 Deft. not present. Court noted Deft. wasn't transported as it is not entertaining oral argument. COURT ADOPTED the Procedural History as set forth by the State FINDING it is an accurate recitation of the history of this case, stated its FINDINGS, and ORDERED, Motions DENIED. Court advised Deft. will need to file something with Judge Villani's court if he wants Judge Villani to take actions in his cases. State to prepare the order. NDC CLERK'S NOTE: A copy of this Minute Order was mailed to: Brian O'Keefe #90244 HDSP P.O. Box 650 Indian Springs, NV 89018. anm/1/31/14 ;</i></p>

CASE SUMMARY

CASE NO. 04C202793

02/03/2014



Motion for Default Judgment (9:30 AM) (Judicial Officer: Miley, Stefany)

Defendant's Pro Per Motion for Default Judgment for State's Failure to Exercise Simple Reasonable Due Diligence to "Serve" Petitioner Copy of Opposition in "Conjunction" with "Filing" with Emphasis on A.G.O. No 2002-15 (March 21, 2002)

Motion Denied;

Journal Entry Details:

Hilary Heap, Deputy District Attorney, present for the State of Nevada. Deft. not present. Court noted Deft. wasn't transported as it is not entertaining oral argument. COURT ADOPTED the Procedural History as set forth by the State FINDING it is an accurate recitation of this case, stated its FINDINGS, and ORDERED, Motion DENIED. State to prepare the order. NDC CLERK'S NOTE: A copy of this Minute Order was mailed to: Brian O'Keefe # 90244 HDSP P.O. Box 650 Indian Springs, NV 89018. anm/2/5/14 ;

02/19/2014

CANCELED Motion (9:30 AM) (Judicial Officer: Miley, Stefany)

Vacated

Motion / Reply to State's Exhibits A.B.C.D. to Affidavit.

10/13/2014



Motion (9:30 AM) (Judicial Officer: Miley, Stefany)

Defendant's Pro Se Motion for Appointment of Counsel

Motion Denied; Defendant's Pro Se Motion for Appointment of Counsel

Journal Entry Details:

Court noted State's Opposition filed October 10, 2014, pointed out Deft. gave no reason for the need of counsel, stated Deft. had no constitutional right to counsel in post-conviction proceedings and further stated motion lacks merit. Therefore, COURT ORDERED, motion DENIED. State to prepare the Order. NIC (COC-FED) CLERK'S NOTE: The above minute order has been distributed to: Brian K. O'Keefe #90244 c/o Lovelock Correctional Center, 1200 Prison Road, Lovelock, NV 89419. 10/15/14 kls ;

10/22/2014



Petition (9:30 AM) (Judicial Officer: Miley, Stefany)

Defendant's Pro Per Notice of Petition and Petition for Writ of Coram Nobis Based on Acquittal of all Felonies which Underpinned Count 6 Burglary Thereby Court in Want of Jurisdiction with New Sentencing Judge Lacking This Knowledge and Fact

Off Calendar;

Journal Entry Details:

Deft. not present Court ORDERED matter OFF CALENDAR as this Court has no jurisdiction due to Petitioner's previous Writ of Coram Nobis being on appeal. NDC;

07/05/2022



Minute Order (7:00 AM) (Judicial Officer: Ballou, Erika)

Minute Order - No Hearing Held;

Journal Entry Details:

It having come to the attention of the Court that Mr. O Keefe filed the instant Motion to Vacate Judgment (NRS 176.555) on June 10, 2022, and the State of Nevada filed its opposition to said motion on June 30, 2022, and the same being scheduled for hearing on July 6, 2022. The Court, having considered all papers and pleadings, hereby DENIES the motion and VACATES the hearing scheduled for July 6, 2022. It is unclear what type of pleading Mr. O Keefe intended. There was no statutorily recognized pleading known as Motion to Vacate Judgment when the judgment is the result of a jury trial. See NRS 176.515. Mr. O Keefe cites NRS 176.555 in the motion s title this statute permits a court to correct an illegal sentence. NRS 176.555 provides that the court may correct an illegal sentence at any time. The grounds to correct an illegal sentence are narrow. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1995). A motion to correct an illegal sentence is an appropriate vehicle for raising the claim that a sentence is facially illegal at any time. Such motion cannot be used for challenging the validity of a judgment of conviction or sentence based on alleged errors at trial. Id. Here, Mr. O Keefe does not allege that his sentence is at variance with the controlling statute, that the court was acting beyond its jurisdiction, or that his sentence is in excess of the statutory maximum. Therefore, the allegations at hand are out of the narrow scope allowed in this type of motion. Here, Mr. O Keefe s sentence is within the sentencing range set by the statute. The Motion fails on this front. If Mr. O Keefe intended the instant pleading to be a post-conviction petition for writ of habeas corpus, the motion does not conform with requirements of NRS Chapter 34. Even if the motion did comply with the requirements under the NRS, it would be procedurally barred as untimely under NRS 34.726 and successive under NRS 34.810. Mr. O Keefe must demonstrate good cause and prejudice before the claims could be considered on

CASE SUMMARY**CASE No. 04C202793**

their merits. The pleading substantively appears to be most similar to a motion to establish factual innocence as Mr. O Keefe claims to be innocent of burglary. However, the pleading does not meet the required standards of NRS 34.900-990. First and foremost, Mr. O Keefe has previously filed such a petition before the Court and it was properly denied. NRS 34.920 defines factual innocence to mean that a person did not: 1. Engage in the conduct for which he or she was convicted; 2. Engage in conduct constituting a lesser included or inchoate offense of the crime for which he or she was convicted; 3. Commit any other crime arising out of or reasonably connected to the facts supporting the indictment or information upon which he or she was convicted; and 4. Commit the conduct charged by the State under any theory of criminal liability alleged in the indictment or information. Here, Mr. O Keefe's claims fail again as the conviction for misdemeanor Battery could have been a predicate offense for Burglary. The applicable statute was in effect from 1995-2005. Furthermore, pursuant to NRS 176.515, a motion for a new trial based on newly discovered evidence may be made only within two years after the verdict of guilt. Mr. O Keefe's case had a jury verdict on October 28, 2004. This Motion does not comply with the NRS 176.515 requirement and also fails for this reason. Due to the aforementioned reasons, Mr. O Keefe's Motion to Vacate Judgment (NRS 176.555) is DENIED. The hearing scheduled for July 6, 2022, is hereby VACATED. The State is to prepare the order. It is so ordered. 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, P.O.Box 650, Indian Springs, NV, 89070.//rh07.05.22;

07/06/2022

CANCELED Motion to Vacate (9:30 AM) (Judicial Officer: Ballou, Erika)
Vacated
Motion to Vacate Judgment

DATE**FINANCIAL INFORMATION**

Defendant O'Keefe, Brian K
 Total Charges
 Total Payments and Credits
Balance Due as of 7/28/2022

175.00
 0.00
175.00

Steven B. Wolfson

CLERK OF THE COURT

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ROBERT TURNER
Chief Deputy District Attorney
Nevada Bar #006526
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 K. O'KEEFE,
#90244

Defendant.

CASE NO: 04C202793

DEPT NO: XXIV

ORDER DENYING DEFENDANT'S MOTION TO VACATE JUDGMENT

DATE OF HEARING: July 6, 2022
TIME OF HEARING: 9:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 6th day of July, 2022, the defendant not being present having filed Pro Per, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through ROBERT TURNER, Chief Deputy District Attorney, and without argument, based on the pleadings and good cause appearing therefor,

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///

1 IT IS HEREBY ORDERED that the Defendant's Motion to Vacate Judgment, shall be,
2 and it is DENIED.

3 DATED this _____ day of July, 2022.

Dated this 13th day of July, 2022

4 

5 DISTRICT JUDGE

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

CD9 E20 AEBB 4A2A
Erika Ballou
District Court Judge

8
9 BY



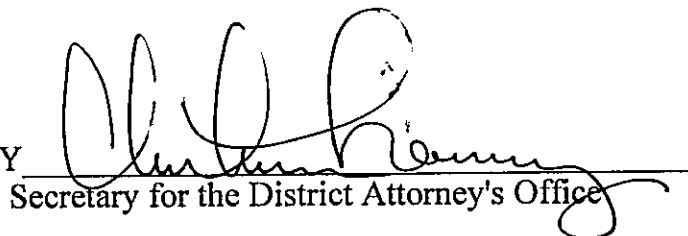
10 ROBERT TURNER
11 Chief Deputy District Attorney
12 Nevada Bar #006526

13 **CERTIFICATE OF MAILING**

14 I hereby certify that service of the above and foregoing was made this 13th
15 day of July 2022, by depositing a copy in the U.S. Mail, postage pre-paid,
16 addressed to:

17 Brian O'Keefe #90244
18 Lovelock Correctional Center
19 1200 Prison Road
Lovelock, NV 89419

20
21
22 BY


Secretary for the District Attorney's Office

23
24
25
26
27
28 04F09774X/clh/L3

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 The State of Nevada vs Brian K
O'Keefe

CASE NO: 04C202793

7 DEPT. NO. Department 24

8
9 **AUTOMATED CERTIFICATE OF SERVICE**

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

13 Service Date: 7/13/2022

14 D A motions@clarkcountyda.com

THE SEALED PORTION
OF THESE MINUTES
WILL FOLLOW VIA
U.S. MAIL.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 13, 2014

04C202793

The State of Nevada vs Brian K O'Keefe

January 13, 2014

9:30 AM

All Pending Motions

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- DEFT'S PRO PER (EX PARTE) MOTION TO APPOINT COUNSEL...DEFT'S PRO PER PETITION FOR A WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORAM NOBIS...DEFT'S PRO PER MOTION TO WAIVE FILING FEES FOR PETITION FOR WRIT OF MANDAMUS...DEFT'S PRO PER MOTION TO SUPPLEMENT PETITION FOR A WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORUM NOBIS WITH A CERTIFIED COPY OF J.O.C. TO C202793...DEFT'S PRO PER SUPPLEMENT OF EVIDENCE OF SUICIDES AND SELF MUTILATIONS AND MENTAL HEALTH ALONG WITH NINTH COA ON NAMELY, A DOUBLE JEOPARDY VIOLATION, CASE NO - 12- 15271

COURT ORDERED, matter CONTINUED as the JAVS system is malfunctioning.

NDC

CONTINUED TO: 1/29/14 9:30 AM

CLERK'S NOTE: A copy of this Minute Order was placed in the District Attorney folder and mailed to Deft. at:

Brian O'Keefe #90244

HDSP

P.O. Box 650

04C202793

Indian Springs, NV 89018. anm/1/13/14

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 29, 2014**

04C202793

The State of Nevada vs Brian K O'Keefe

January 29, 2014**9:30 AM****All Pending Motions****HEARD BY:** Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Anntoinette Naumec-Miller**RECORDER:** Maria Garibay**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Gwynneth Smith, Deputy District Attorney, present for the State of Nevada.

DEFT'S PRO PER (EX PARTE) MOTION TO APPOINT COUNSEL...DEFT'S PRO PER PETITION FOR A WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORAM NOBIS...DEFT'S PRO PER MOTION TO WAIVE FILING FEES FOR PETITION FOR WRIT OF MANDAMUS...DEFT'S PRO PER MOTION TO SUPPLEMENT PETITION FOR A WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF CORUM NOBIS WITH A CERTIFIED COPY OF J.O.C. TO C202793...DEFT'S PRO PER SUPPLEMENT OF EVIDENCE OF SUICIDES AND SELF MUTILATIONS AND MENTAL HEALTH ALONG WITH NINTH COA ON NAMELY, A DOUBLE JEOPARDY VIOLATION, CASE NO - 12- 15271

Deft. not present. Court noted Deft. wasn't transported as it is not entertaining oral argument. COURT ADOPTED the Procedural History as set forth by the State FINDING it is an accurate recitation of the history of this case, stated its FINDINGS, and ORDERED, Motions DENIED. Court advised Deft. will need to file something with Judge Villani's court if he wants Judge Villani to take actions in his cases. State to prepare the order.

NDC

CLERK'S NOTE: A copy of this Minute Order was mailed to:

04C202793

Brian O'Keefe #90244

HDSP

P.O. Box 650

Indian Springs, NV 89018. anm/1/31/14

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 03, 2014**

04C202793

The State of Nevada vs Brian K O'Keefe

February 03, 2014**9:30 AM****Motion for Default
Judgment****HEARD BY:** Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Anntoinette Naumec-Miller**RECORDER:** Maria Garibay**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Hilary Heap, Deputy District Attorney, present for the State of Nevada.

Deft. not present. Court noted Deft. wasn't transported as it is not entertaining oral argument. COURT ADOPTED the Procedural History as set forth by the State FINDING it is an accurate recitation of this case, stated its FINDINGS, and ORDERED, Motion DENIED. State to prepare the order.

NDC

CLERK'S NOTE: A copy of this Minute Order was mailed to:

Brian O'Keefe # 90244

HDSP

P.O. Box 650

Indian Springs, NV 89018. anm/2/5/14

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 13, 2014**

04C202793

The State of Nevada vs Brian K O'Keefe

October 13, 2014**9:30 AM****Motion****Defendant's Pro Se
Motion for
Appointment of
Counsel****HEARD BY:** Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Katherine Streuber**RECORDER:** Maria Garibay**REPORTER:****PARTIES****PRESENT:**

State of Nevada

Plaintiff

Thoman, Charles W.

Attorney

JOURNAL ENTRIES

- Court noted State's Opposition filed October 10, 2014, pointed out Deft. gave no reason for the need of counsel, stated Deft. had no constitutional right to counsel in post-conviction proceedings and further stated motion lacks merit. Therefore, COURT ORDERED, motion DENIED. State to prepare the Order.

NIC (COC-FED)

CLERK'S NOTE: The above minute order has been distributed to: Brian K. O'Keefe #90244 c/o Lovelock Correctional Center, 1200 Prison Road, Lovelock, NV 89419. 10/15/14 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 22, 2014

04C202793

The State of Nevada vs Brian K O'Keefe

October 22, 2014

9:30 AM

Petition

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Jill Chambers

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:

Heap, Hilary
State of Nevada

Attorney
Plaintiff

JOURNAL ENTRIES

- Deft. not present Court ORDERED matter OFF CALENDAR as this Court has no jurisdiction due to Petitioner's previous Writ of Coram Nobis being on appeal.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 05, 2022**

04C202793

The State of Nevada vs Brian K O'Keefe

July 05, 2022**7:00 AM****Minute Order****HEARD BY:** Ballou, Erika**COURTROOM:** Chambers**COURT CLERK:**

Ro'Shell Hurtado

RECORDER:**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- It having come to the attention of the Court that Mr. O Keefe filed the instant Motion to Vacate Judgment (NRS 176.555) on June 10, 2022, and the State of Nevada filed its opposition to said motion on June 30, 2022, and the same being scheduled for hearing on July 6, 2022. The Court, having considered all papers and pleadings, hereby DENIES the motion and VACATES the hearing scheduled for July 6, 2022.

It is unclear what type of pleading Mr. O Keefe intended. There was no statutorily recognized pleading known as Motion to Vacate Judgment when the judgment is the result of a jury trial. See NRS 176.515. Mr. O Keefe cites NRS 176.555 in the motion s title this statute permits a court to correct an illegal sentence. NRS 176.555 provides that the court may correct an illegal sentence at any time. The grounds to correct an illegal sentence are narrow. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1995). A motion to correct an illegal sentence is an appropriate vehicle for raising the claim that a sentence is facially illegal at any time. Such motion cannot be used for challenging the validity of a judgment of conviction or sentence based on alleged errors at trial. *Id.* Here, Mr. O Keefe does not allege that his sentence is at variance with the controlling statute, that the court was acting beyond its jurisdiction, or that his sentence is in excess of the statutory maximum. Therefore, the allegations at hand are out of the narrow scope allowed in this type of motion. Here, Mr. O Keefe s sentence is within the sentencing range set by the statute. The Motion fails on this front.

If Mr. O Keefe intended the instant pleading to be a post-conviction petition for writ of habeas corpus, the motion does not conform with requirements of NRS Chapter 34. Even if the motion did comply with the requirements under the NRS, it would be procedurally barred as untimely under NRS 34.726 and successive under NRS 34.810. Mr. O Keefe must demonstrate good cause and prejudice before the claims could be considered on their merits.

The pleading substantively appears to be most similar to a motion to establish factual innocence as Mr. O Keefe claims to be innocent of burglary. However, the pleading does not meet the required standards of NRS 34.900-990. First and foremost, Mr. O Keefe has previously filed such a petition before the Court and it was properly denied. NRS 34.920 defines factual innocence to mean that a person did not:

1. Engage in the conduct for which he or she was convicted;
2. Engage in conduct constituting a lesser included or inchoate offense of the crime for which he or she was convicted;
3. Commit any other crime arising out of or reasonably connected to the facts supporting the indictment or information upon which he or she was convicted; and
4. Commit the conduct charged by the State under any theory of criminal liability alleged in the indictment or information.

Here, Mr. O Keefe's claims fail again as the conviction for misdemeanor Battery could have been a predicate offense for Burglary. The applicable statute was in effect from 1995-2005.

Furthermore, pursuant to NRS 176.515, a motion for a new trial based on newly discovered evidence may be made only within two years after the verdict of guilt. Mr. O Keefe's case had a jury verdict on October 28, 2004. This Motion does not comply with the NRS 176.515 requirement and also fails for this reason.

Due to the aforementioned reasons, Mr. O Keefe's Motion to Vacate Judgment (NRS 176.555) is DENIED. The hearing scheduled for July 6, 2022, is hereby VACATED. The State is to prepare the order. It is so ordered.

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, P.O.Box 650, Indian Springs, NV, 89070.//rh07.05.22

States

EXHIBITS

CASE NO. 202793

		OFFERED		ADMITTED	
		DATE	OBJ	DATE	
1.	photograph	10/60	✓ no obj	✓	10/26
2.	photograph	10/60	✓ no obj	✓	10/26
3.	photograph		✓	✓	
4.	photograph		✓	✓	
5.	photograph		✓	✓	
6.	photograph		✓	✓	
7.	photograph		✓	✓	
8.	photograph		✓	✓	
9.	photograph		✓	✓	
10.	photograph		✓	✓	
11.	photograph	✓	✓	✓	✓
12.	photograph				
13.	photograph	10/60	✓ no obj	✓	10/26
14.	photograph	10/60	✓ no obj	✓	10/26
15.	photograph	10/26	✓ no obj	✓	10/26
16.	photograph	10/26	✓ no obj	✓	10/26
17.	photograph	10/26	✓ no obj	✓	10/26
18.	larger 8x10 photo - victim Victoria Whitman	10/27	✓	✓	10/27
19.	larger 8x10 photo. victim	10/27	✓ no obj	✓	10/27
20.	" " " victim " "	10/27	✓ no obj	✓	10/27
21.	" " " victim	10/26	✓ no obj	✓	10/26
22.	" " " victim	10/26	✓	✓	10/26

States

EXHIBITS

CASE NO. C202793

		OFFERED		ADMITTED	
		DATE	OBJ	DATE	
23.	Lazer photo - 8x10 Victim	10/27	✓ no obj	✓	10/27
24.	Lazer photo - 8x10 Victim	10/27	✓ no obj	✓	10/27
25.	Lazer photo - 8x10 - Victim	10/27	✓ no obj	✓	10/27
26.	Lazer photo - 8x10 - Victim	10/27	✓ no obj	✓	10/27
27.	Lazer photo - 8x10 - Victim	10/27	✓ no obj	✓	10/27
28.	Lazer photo - 8x10 - Victim	10/27	✓ no obj	✓	10/27
29.	Lazer photo - 8x10 - Victim	10/27	✓ no obj	✓	10/27
30.	Lazer photo - 8x10 - Victim	10/27	✓ no obj	✓	10/27
31.	Lazer photo - 8x10 - Victim	10/27	✓ no obj	✓	10/27
32.	Lazer photo - 8x10 - Victim	10/27	✓ no obj	✓	10/27
33.	Lazer photo - 8x10 - Victim	10/27	✓ no obj	✓	10/27
34.	Lazer photo - 8x10 Victim	10/27	✓ no obj	✓	10/27
35.	Lazer photo - 8x10 Victim	10/27	✓ obj	✓	10/27
36.	DNA test results	10/25	✓ strip	✓	10/25
37.	Evidence Bag	10/26	✓ strip	✓	10/26
38.	Evidence Bag		✓	✓	
39.	Evidence Bag		✓	✓	
40.	Evidence Bag		✓	✓	
41.	Evidence Bag		✓	✓	
42.	Evidence Bag		✓	✓	
43.	Evidence Bag	↓	✓	↓	↓
44.	photographs of Victim	10/26	✓ obj	✓	10/26



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: July 28, 2022
CASE: 04C202793

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

NOTICE OF APPEAL FILED: July 27, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

- ☐ 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.

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; ORDER DENYING DEFENDANT'S MOTION TO VACATE JUDGMENT;
DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

STATE OF NEVADA,

Plaintiff(s),

vs.

BRIAN KERRY O'KEEFE,

Defendant(s).

Case No: 04C202793

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 28 day of July 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk