

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

Electronically Filed  
Nov 17 2023 11:33 AM  
Elizabeth A. Brown  
Clerk of Supreme Court

THE STATE OF NEVADA,

Plaintiff,

vs.

FERRILL JOSEPH VOLPICELLI,

Defendant.

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Sup. Ct. Case No. 87505

Case No. CR02-0147

Dept. 10

RECORD ON APPEAL

VOLUME 2 OF 10

DOCUMENTS

APPELLANT

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APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
AMENDED APPLICATION FOR ORDER TO PRODUCE PRISONER	01-24-02	2	5-6
AMENDED INFORMATION	02-21-03	2	120-124
AMENDED JUDGMENT	03-02-15	5	735-736
AMENDED ORDER DENYING PETITION	05-03-23	8	1163-1164
AMENDED ORDER TO PRODUCE PRISONER	01-29-02	2	7-8
ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)	02-03-05	9	21-23
ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	09-07-06	9	100-102
APPLICATION FOR ORDER TO PRODUCE PRISONER	01-15-02	2	1-2
APPLICATION FOR ORDER TO PRODUCE PRISONER	05-03-02	2	48-50
APPLICATION FOR ORDER TO PRODUCE PRISONER	05-03-02	2	51-53
APPLICATION FOR ORDER TO PRODUCE PRISONER	02-26-03	2	126-127
APPLICATION FOR SETTING	02-01-02	2	9-10
BRIEF IN SUPPORT OF THE ADMISSION OF THE STATE'S PROOF OF THE DEFENDANT'S PRIOR CONVICTION	12-11-03	3	308-322
CASE APPEAL STATE	06-22-22	6	1072-1073
CASE APPEAL STATEMENT	01-02-04	3	390-391
CASE APPEAL STATEMENT	03-12-14	4	607-608
CASE APPEAL STATEMENT	05-30-14	4	669-670
CASE APPEAL STATEMENT	03-11-15	5	744-745
CASE APPEAL STATEMENT	09-29-21	6	991-992
CASE APPEAL STATEMENT	10-24-23	8	1236-1237
CASE APPEAL STATEMENT	11-27-07	9	140-141
CASE ASSIGNMENT NOTIFICATION	03-16-21	5	909-910
CERTIFICATE OF CLERK	01-06-04	3	396
CERTIFICATE OF CLERK	11-27-07	9	142
CERTIFICATE OF CLERK AND TRANSMITTAL	04-01-15	5	827

APPEAL INDEX  
 SUPREME COURT NO: 87505  
 DISTRICT CASE NO: CR02-0147  
 STATE OF NEVADA vs FERRILL J. VOLPICELLI  
 DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	03-12-14	4	609
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	05-30-14	4	671
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	03-11-15	5	746
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	09-29-21	6	993
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	06-22-22	6	1074
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	10-24-23	8	1238
CERTIFICATE OF CLERK AND TRANSMITTAL – RECORD ON APPEAL	07-29-14	5	696
CERTIFICATE OF CLERK AND TRANSMITTAL – RECORD ON APPEAL	07-21-22	7	1087
CERTIFICATE OF MAILING	09-16-16	5	870
CERTIFICATE OF MAILING	09-16-16	5	871-873
CERTIFICATE OF TRANSMITTAL	01-06-04	3	397
CERTIFICATE OF TRANSMITTAL	11-27-07	9	143
COMPETENCY EVALUATION	03-18-02	10	1-4
DEFENDANT’S BRIEF	12-12-03	3	334-351
ERRATA NOTICE OF APPEAL ISSUED TO BE RAISED NRAP 3C, FRE201, FRAP 28	03-10-15	5	742-743
EX PARTE MOTION FOR ORDER ALLOWING PAYMENT OF ATTORNEY’S FEES AND COSTS TO APPOINTED COUNSEL & AFFIDAVIT OF COUNSEL (APPEAL FROM DENIAL OF POST-CONVICTION RELIEF)	02-05-08	10	27-31
EX PARTE PETITION FOR CLARIFICATION ON ISSUES REGARDING STATE BAIL	07-16-03	2	237-239
EX PARTE PETITION FOR CLARIFICATION ON ISSUES REGARDING STATE BAIL	08-01-03	3	255-265
INFORMATION	02-06-02	2	21-24
INMATE REQUEST FORM	07-22-03	2	240-243
INMATE REQUEST FORM	07-22-03	3	244-252
INMATE REQUEST FORM	08-25-03	3	280-285
JUDGMENT	12-12-03	3	352-353

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
JUDICIAL NOTICE	05-06-14	4	635-643
JURY INSTRUCTIONS	07-10-03	2	207-234
JUSTICE COURT PROCEEDINGS	02-04-02	2	11-20
LETTER FROM DEFENDANT	09-12-03	3	286-291
LETTER FROM DEFENDANT	12-10-03	3	305-307
LETTER FROM THE EMPLOYER OF PROSPECTIVE JUROR REQUESTING RELIEF	07-10-03	2	197
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF NOTICE OF APPEAL ISSUES	03-19-15	5	754-822
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	06-27-06	9	73-94
MINUTES – ARRAIGNMENT	02-13-02	2	26
MINUTES – CRIMINAL PROGRESS SHEET	04-19-02	2	41-43
MINUTES – ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE	12-05-03	3	304
MINUTES – ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE	12-12-03	3	354-356
MINUTES – JURY TRIAL	07-10-03	2	198-204
MINUTES – MOTION FOR AN O.R. RELEASE	04-29-03	2	145
MINUTES – MOTION FOR OWN RECOGNIZANCE RELEASE INTO FEDERAL CUSTODY	04-30-03	2	146
MINUTES – MOTION TO CONFIRM TRIAL	09-06-02	2	90
MINUTES – MOTION TO CONFIRM TRIAL	09-11-02	2	91
MINUTES – MOTION TO CONFIRM TRIAL	02-26-03	2	125
MINUTES – MOTION TO CONFIRM TRIAL	03-21-03	2	137
MINUTES – MOTION TO CONFIRM TRIAL	06-18-03	2	161
MINUTES – MOTION TO SET TRIAL	10-23-02	2	114
MINUTES – REPORT ON PSYCHIATRIC EVALUATIONS / ARRAIGNMENT	04-19-02	2	40
MINUTES – STATUS HEARING	06-12-03	2	160
MOTION FOR APPOINTMENT OF ALTERNATIVE COUNSEL	04-12-05	4	548-550

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
MOTION FOR APPOINTMENT OF COUNSEL (EX PARTE)	02-23-05	9	24-26
MOTION FOR APPOINTMENT OF PSYCHIATRISTS FOR EXAMINATION OF DEFENDANT	02-13-02	2	27-29
MOTION FOR APPOINTMENT OF PSYCHIATRISTS FOR EXAMINATION OF DEFENDANT	02-13-02	2	30-32
MOTION FOR CONSOLIDATION OF HABEAS CORPUS PROCEEDINGS	12-15-06	9	105-107
MOTION FOR CREDIT AMENDMENT TO PRESENTENCE CUSTODY	04-23-13	9	189-196
MOTION FOR ELIMINATION OF FEES	01-08-21	5	877-896
MOTION FOR JUDICIAL ACTION ON PETITION	11-06-09	9	172-173
MOTION FOR JUDICIAL NOTICE	04-13-23	8	1159-1160
MOTION FOR NEW TRIAL	08-01-03	3	266-276
MOTION FOR ORDER TRANSFERRING PETITION TO THE SIXTH JUDICIAL DISTRICT COURT FOR PERSHING COUNTY	09-07-06	9	97-99
MOTION FOR RECONSIDERATION	11-20-13	4	571-575
MOTION FOR RECONSIDERATION	06-24-21	6	943-950
MOTION TO AMEND JUDGMENT / CORRECT JUDGMENT	02-24-14	4	598-602
MOTION TO AMEND, CORRECT OR MODIFY PRE-SENTENCE CREDIT	06-16-16	5	844-852
MOTION TO CORRECT ILLEGAL SENTENCE	05-19-14	4	658-666
MOTION TO CORRECT JUDGMENT TO REMOVE DOUBLE JEOPARDY CHARGE	06-03-13	4	560-564
MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)	02-03-05	9	16-20
MOTION TO RECUSE	01-08-21	5	897-899
MOTION TO REMIT LEGAL DEFENSE FEES	11-29-21	6	1010-1022
MOTION TO STAY PETITION PENDING REMITTITUR	10-18-22	7	1096-1097
MOTION TO TAKE JUDICIAL NOTICE	11-29-22	8	1130-1131
MOTION TO TAKE JUDICIAL NOTICE	05-23-23	8	1170-1173
MOTION TO TAKE JUDICIAL NOTICE AND TO RECONSIDER	12-18-14	5	713-716
NOTICE OF ADDRESS CHANGE	01-05-04	3	395

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
NOTICE OF ADDRESS CHANGE	05-28-04	3	448
NOTICE OF ADDRESS CHANGE	06-01-04	3	449
NOTICE OF APPEAL	01-02-04	3	393-394
NOTICE OF APPEAL	03-10-14	4	605-606
NOTICE OF APPEAL	05-28-14	4	667-668
NOTICE OF APPEAL	03-10-15	5	740-741
NOTICE OF APPEAL	09-27-21	6	989-990
NOTICE OF APPEAL	06-21-22	6	1070-1071
NOTICE OF APPEAL	10-23-23	8	1231-1233
NOTICE OF APPEAL	11-26-07	9	138-139
NOTICE OF CHANGE OF ADDRESS	05-01-08	4	555-556
NOTICE OF DOCUMENT RECEIVED BUT NOT CONSIDERED BY THE COURT	05-02-03	2	147-149
NOTICE OF ENTRY OF ORDER	06-10-21	6	935-939
NOTICE OF ENTRY OF ORDER	09-13-21	6	980-985
NOTICE OF ENTRY OF ORDER	06-21-07	9	130-134
NOTICE OF ENTRY OF ORDER	01-05-10	9	184-188
NOTICE OF EXPERT WITNESSES PURSUANT TO NRS 174.234	08-30-02	2	68-89
NOTICE OF INTENT TO SEEK HABITUAL CRIMINALITY	08-02-02	2	65-67
NOTICE THAT SUPPLEMENT TO THE PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) WILL BE FILED	02-16-07	9	112-113
OPPOSITION TO MOTION TO AMEND, CORRECT OR MODIFY PRE-SENTENCE CREDIT	06-17-16	5	853-855
OPPOSITION TO REQUEST FOR SUBMISSION	04-13-05	4	551-554
ORDER	09-17-02	2	100
ORDER	09-17-02	2	101
ORDER	08-13-03	3	277-279
ORDER	10-31-13	4	567-569

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
ORDER	04-08-14	4	617-618
ORDER	07-08-14	5	685-686
ORDER	10-20-14	5	704-705
ORDER	03-02-15	5	728-731
ORDER	06-09-21	5	924-925
ORDER	12-21-04	9	14-15
ORDER	03-30-05	9	58-59
ORDER	04-29-05	9	62-63
ORDER	07-25-06	9	95-96
ORDER	01-26-07	9	109-111
ORDER	06-08-07	9	126-129
ORDER	11-18-09	9	176-178
ORDER APPROVING FEES OF COURT-APPOINTED ATTORNEY (PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) APPEAL TO NEVADA SUPREME COURT	02-15-08	10	32
ORDER DENYING MOTION FOR AMENDED JUDGMENT	05-09-14	4	652-654
ORDER DENYING MOTION FOR CREDIT AMENDMENT TO PRESENTENCE CUSTODY	06-19-13	9	199-200
ORDER DENYING MOTION TO TAKE JUDICIAL NOTICE	12-22-22	8	1144-1146
ORDER DENYING MOTION TO TAKE JUDICIAL NOTICE	08-17-23	8	1179-1182
ORDER DENYING PETITION	12-22-22	8	1150-1151
ORDER DENYING PETITION FOR DETERMINATION OF FACTUAL INNOCENCE	10-12-23	8	1222-1225
ORDER DENYING PETITIONER'S MOTION FOR ELIMINATION OF FEES	06-10-21	6	929-931
ORDER DENYING PETITIONER'S MOTION TO REMIT LEGAL DEFENSE FEES	06-09-22	6	1063-1066
ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION	12-30-13	4	578-581
ORDER DENYING PETITIONER'S SECOND MOTION FOR RECONSIDERATION	02-07-14	4	592-594

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
ORDER DENYING REQUEST FOR THE COURT'S INDEPENDENT REVIEW	10-09-23	8	1216-1218
ORDER FOR THE STATE'S RESPONSE	06-16-23	8	1174-1175
ORDER GRANTING IN FORMA PAUPERIS	11-20-09	9	180-182
ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION FOR RECONSIDERATION	09-10-21	6	959-962
ORDER RE: PETITIONER'S MOTION TO REMIT LEGAL DEFENSE FEES	02-08-22	6	1033-1035
ORDER RECUSING JUDGE SCOTT N. FREEMAN	03-16-21	5	904-905
ORDER TO PRODUCE PRISONER	01-23-02	2	3-4
ORDER TO PRODUCE PRISONER	05-07-02	2	54-56
ORDER TO PRODUCE PRISONER	03-06-03	2	128-129
ORDER TRANSFERRING PETITIONER'S MOTION TO AMEND CORRECT OR MODIFY PRE-SENTENCE CREDIT	09-14-16	5	864-866
PETITION FOR DETERMINATION OF FACTUAL INNOCENCE	08-31-23	8	1190-1213
PETITION FOR DISMISSAL OF COUNSEL AND PRO SE REPRESENTATION	09-19-03	3	292-296
PETITION FOR DISMISSAL OF COUNSEL AND PRO SE REPRESENTATION	10-08-03	3	297-301
PETITION FOR RELIEF BASED ON ACTUAL INNOCENCE PURSUANT TO NRS 34.900 ET SQ	10-18-22	7	1098-1120
PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)	10-07-04	9	1-13
PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	06-27-06	9	64-72
PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	09-04-09	9	156-171
PRESENTENCE REPORT	12-03-03	10	19-26
PROOF OF SERVICE OF ELECTRONIC FILING	03-22-13	4	559
PROOF OF SERVICE OF ELECTRONIC FILING	10-31-13	4	570
PROOF OF SERVICE OF ELECTRONIC FILING	12-30-13	4	582
PROOF OF SERVICE OF ELECTRONIC FILING	11-18-09	9	179
PROOF OF SERVICE OF ELECTRONIC FILING	11-20-09	9	183
PROOF OF SERVICE OF ELECTRONIC FILING	06-19-13	9	201



APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
PSYCHIATRIC EVALUATION	06-16-03	10	5-18
REPLY TO OPPOSITION TO MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	05-16-07	9	121-123
REPLY TO STATE'S OPPOSITION TO MOTION TO REMIT LEGAL FEES	03-10-22	6	1046-1057
REQUEST FOR CONTINUANCE. STIPULATION	09-17-02	2	98-99
REQUEST FOR SUBMISSION	07-22-03	3	253
REQUEST FOR SUBMISSION	08-01-03	3	254
REQUEST FOR SUBMISSION	10-24-03	3	302
REQUEST FOR SUBMISSION	10-24-03	3	303
REQUEST FOR SUBMISSION	12-15-04	4	547
REQUEST FOR SUBMISSION	07-25-16	5	859-860
REQUEST FOR SUBMISSION	04-07-21	5	919-920
REQUEST FOR SUBMISSION	12-09-21	6	1023-1024
REQUEST FOR SUBMISSION	04-08-22	6	1058-1059
REQUEST FOR SUBMISSION	02-14-23	8	1155-1156
REQUEST FOR SUBMISSION	04-05-05	9	60-61
REQUEST FOR SUBMISSION	10-20-06	9	103-104
REQUEST FOR SUBMISSION	05-16-07	9	124-125
REQUEST FOR SUBMISSION – DOCUMENT ERROR – NO IMAGE	12-15-06	9	108
REQUEST FOR SUBMISSION OF MOTION	09-13-13	4	565-566
REQUEST FOR SUBMISSION OF MOTION	11-20-13	4	576-577
REQUEST FOR SUBMISSION OF MOTION	01-09-14	4	590-591
REQUEST FOR SUBMISSION OF MOTION	02-24-14	4	603-604
REQUEST FOR SUBMISSION OF MOTION	04-10-14	4	627-628
REQUEST FOR SUBMISSION OF MOTION	06-17-14	4	679-680
REQUEST FOR SUBMISSION OF MOTION	08-22-14	5	700-701

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
REQUEST FOR SUBMISSION OF MOTION	09-24-14	5	702-703
REQUEST FOR SUBMISSION OF MOTION	12-18-14	5	717-718
REQUEST FOR SUBMISSION OF MOTION	01-26-21	5	903
REQUEST FOR SUBMISSION OF MOTION	04-07-21	5	914-915
REQUEST FOR SUBMISSION OF MOTION	07-06-21	6	954-955
REQUEST FOR SUBMISSION OF MOTION	09-10-21	6	966-976
REQUEST FOR SUBMISSION OF MOTION	11-29-22	8	1132-1133
REQUEST FOR SUBMISSION OF MOTION	11-29-22	8	1134-1135
REQUEST FOR SUBMISSION OF MOTION	04-13-23	8	1161-1162
REQUEST FOR SUBMISSION OF MOTION	05-23-23	8	1168-1169
REQUEST FOR SUBMISSION OF MOTION	08-29-23	8	1188-1189
REQUEST FOR SUBMISSION OF MOTION	08-31-23	8	1214-1215
REQUEST FOR SUBMISSION OF MOTION	10-23-23	8	1234-1235
REQUEST FOR SUBMISSION OF MOTION	11-06-09	9	174-175
REQUEST FOR SUBMISSION OF MOTION	04-23-13	9	197-198
REQUEST FOR SUBMISSION OF MOTION – 2 <sup>ND</sup> REQUEST	10-23-23	8	1229-1230
REQUEST FOR THE COURT’S INDEPENDENT REVIEW	08-29-23	8	1186-1187
REQUEST FOR TRANSCRIPTS	01-02-04	3	392
REQUEST, AGREEMENT AND ORDER FOR PRE-TRIAL RECIPROCAL DISCOVERY DEFENDANT'S REQUEST FOR DISCOVERY	04-29-02	2	44-47
REQUEST, AGREEMENT AND ORDER FOR PRE-TRIAL RECIPROCAL DISCOVERY DEFENDANT'S REQUEST FOR DISCOVERY	07-07-03	2	191-193
REQUEST, AGREEMENT AND ORDER FOR PRE-TRIAL RECIPROCAL DISCOVERY DEFENDANT'S REQUEST FOR DISCOVERY	07-09-03	2	194-196
RESPONSE TO “MOTION TO AMEND JUDGMENT/CORRECT JUDGMENT NRS 176.555	04-25-14	4	629-631
RESPONSE TO MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	05-11-07	9	114-117
RESPONSE TO MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	05-14-07	9	118-120

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	02-07-14	4	595-597
RETURN OF NEF	03-12-14	4	610-612
RETURN OF NEF	03-18-14	4	614-616
RETURN OF NEF	04-08-14	4	619-621
RETURN OF NEF	04-09-14	4	624-626
RETURN OF NEF	04-28-14	4	632-634
RETURN OF NEF	05-08-14	4	649-651
RETURN OF NEF	05-09-14	4	655-657
RETURN OF NEF	05-30-14	4	672-674
RETURN OF NEF	06-11-14	4	676-678
RETURN OF NEF	06-20-14	5	682-684
RETURN OF NEF	07-08-14	5	687-689
RETURN OF NEF	07-25-14	5	693-695
RETURN OF NEF	07-29-14	5	697-699
RETURN OF NEF	10-20-14	5	706-708
RETURN OF NEF	12-18-14	5	710-712
RETURN OF NEF	01-12-15	5	723-725
RETURN OF NEF	03-02-15	5	732-734
RETURN OF NEF	03-02-15	5	737-739
RETURN OF NEF	03-11-15	5	747-749
RETURN OF NEF	03-18-15	5	751-753
RETURN OF NEF	03-31-15	5	824-826
RETURN OF NEF	04-01-15	5	828-830
RETURN OF NEF	04-22-15	5	833-835
RETURN OF NEF	05-21-15	5	841-843
RETURN OF NEF	06-17-16	5	856-858

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	07-25-16	5	861-863
RETURN OF NEF	09-14-16	5	867-869
RETURN OF NEF	09-16-16	5	874-876
RETURN OF NEF	01-08-21	5	900-902
RETURN OF NEF	03-16-21	5	906-908
RETURN OF NEF	03-16-21	5	911-913
RETURN OF NEF	04-07-21	5	916-918
RETURN OF NEF	04-07-21	5	921-923
RETURN OF NEF	06-09-21	5	926-928
RETURN OF NEF	06-10-21	6	932-934
RETURN OF NEF	06-10-21	6	940-942
RETURN OF NEF	06-24-21	6	951-953
RETURN OF NEF	07-06-21	6	956-958
RETURN OF NEF	09-10-21	6	963-965
RETURN OF NEF	09-10-21	6	977-979
RETURN OF NEF	09-13-21	6	986-988
RETURN OF NEF	09-29-21	6	994-996
RETURN OF NEF	10-06-21	6	998-1000
RETURN OF NEF	10-25-21	6	1003-1005
RETURN OF NEF	11-19-21	6	1007-1009
RETURN OF NEF	12-29-21	6	1030-1032
RETURN OF NEF	02-08-22	6	1036-1038
RETURN OF NEF	02-22-22	6	1043-1045
RETURN OF NEF	04-08-22	6	1060-1062
RETURN OF NEF	06-09-22	6	1067-1069
RETURN OF NEF	06-22-22	6	1075-1077

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	06-29-22	7	1079-1081
RETURN OF NEF	07-18-22	7	1084-1086
RETURN OF NEF	07-21-22	7	1088-1090
RETURN OF NEF	10-04-22	7	1093-1095
RETURN OF NEF	10-21-22	8	1123-1125
RETURN OF NEF	11-21-22	8	1127-1129
RETURN OF NEF	11-30-22	8	1141-1143
RETURN OF NEF	12-22-22	8	1147-1149
RETURN OF NEF	12-22-22	8	1152-1154
RETURN OF NEF	05-03-23	8	1165-1167
RETURN OF NEF	06-16-23	8	1176-1178
RETURN OF NEF	08-17-23	8	1183-1185
RETURN OF NEF	10-09-23	8	1219-1221
RETURN OF NEF	10-12-23	8	1226-1228
RETURN OF NEF	10-24-23	8	1239-1241
RETURN OF NEF	10-31-23	8	1243-1245
RETURN OF NEF	11-14-23	8	1248-1250
RETURN OF NEF	03-15-05	9	42-57
SECOND MOTION FOR RECONSIDERATION	01-09-14	4	583-589
SECOND REQUEST FOR SUBMISSION OF MOTION	02-17-15	5	726-727
SECOND REQUEST FOR SUBMISSION OF MOTION	03-09-23	8	1157-1158
SEPARATE MEMORANDUM OF POINTS AND AUTHORITIES	10-21-04	4	457-546
STATE'S OPPOSITION TO MOTION TO REMIT LEGAL DEFENSE FEES	02-22-22	6	1039-1042
STATE'S RESPONSE TO MOTION TO CORRECT ILLEGAL SENTENCE	07-25-14	5	690-692
STIPULATION AND REQUEST FOR CONTINUANCE AND ORDER	03-15-02	2	37-39
SUBSTITUTION OF COUNSEL FOR THE STATE	03-22-13	4	557-558

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) & REPLY TO RESPONDENT'S MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	02-23-05	9	27-41
SUPREME COURT CLERK'S CERTIFICATE & JUDGMENT	06-09-04	3	455
SUPREME COURT CLERK'S CERTIFICATE & JUDGMENT	05-08-14	4	645
SUPREME COURT CLERK'S CERTIFICATE & JUDGMENT	01-12-15	5	720
SUPREME COURT CLERK'S CERTIFICATE & JUDGMENT	05-21-15	5	837
SUPREME COURT CLERK'S CERTIFICATE & JUDGMENT	11-30-22	8	1137
SUPREME COURT CLERK'S CERTIFICATE & JUDGMENT	04-04-08	9	150
SUPREME COURT CLERK'S CERTIFICATE & JUDGMENTS	12-29-21	6	1025
SUPREME COURT NOTICE OF TRANSFER TO COURT OF APPEALS	10-04-22	7	1091-1092
SUPREME COURT NOTICE TO TRANSMIT REQUIRED DOCUMENT	03-31-15	5	823
SUPREME COURT ORDER	11-21-22	8	1126
SUPREME COURT ORDER CONSOLIDATING APPEALS, DIRECTING TRANSMISSION OF RECORDS, DENYING MOTIONS, AND REGARDING BRIEFING	07-18-22	7	1082-1083
SUPREME COURT ORDER DENYING REHEARING	11-19-21	6	1006
SUPREME COURT ORDER DENYING REHEARING	12-29-21	6	1026
SUPREME COURT ORDER DIRECTING TRANSMISSION OF RECORD	06-20-14	4	681
SUPREME COURT ORDER DIRECTING TRANSMISSION OF RECORD	11-14-23	8	1246-1247
SUPREME COURT ORDER DISMISSING APPEAL	04-09-14	4	622-623
SUPREME COURT ORDER DISMISSING APPEAL	05-08-14	4	646-648
SUPREME COURT ORDER DISMISSING APPEAL	12-18-14	5	709
SUPREME COURT ORDER DISMISSING APPEAL	01-12-15	5	721-722
SUPREME COURT ORDER DISMISSING APPEAL	04-22-15	5	831-832
SUPREME COURT ORDER DISMISSING APPEAL	05-21-15	5	838-840
SUPREME COURT ORDER DISMISSING APPEALS	10-25-21	6	1001-1002

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
SUPREME COURT ORDER DISMISSING APPEALS	12-29-21	6	1027-1028
SUPREME COURT ORDER DISMISSING APPEALS	01-21-22	8	1121-1122
SUPREME COURT ORDER DISMISSING APPEALS	11-30-22	8	1138-1140
SUPREME COURT ORDER OF AFFIRMANCE	05-14-04	3	443-447
SUPREME COURT ORDER OF AFFIRMANCE	06-09-04	3	450-454
SUPREME COURT ORDER OF AFFIRMANCE	03-06-08	9	145-148
SUPREME COURT ORDER OF AFFIRMANCE	04-04-08	9	151-155
SUPREME COURT RECEIPT FOR DOCUMENTS	01-08-04	3	398
SUPREME COURT RECEIPT FOR DOCUMENTS	03-18-14	4	613
SUPREME COURT RECEIPT FOR DOCUMENTS	06-11-14	4	675
SUPREME COURT RECEIPT FOR DOCUMENTS	03-18-15	5	750
SUPREME COURT RECEIPT FOR DOCUMENTS	10-06-21	6	997
SUPREME COURT RECEIPT FOR DOCUMENTS	06-29-22	6	1078
SUPREME COURT RECEIPT FOR DOCUMENTS	10-31-23	8	1242
SUPREME COURT RECEIPT FOR DOCUMENTS	11-30-07	9	144
SUPREME COURT REMITTITUR	06-09-04	3	456
SUPREME COURT REMITTITUR	05-08-14	4	644
SUPREME COURT REMITTITUR	01-12-15	5	719
SUPREME COURT REMITTITUR	05-21-15	5	836
SUPREME COURT REMITTITUR	12-29-21	6	1029
SUPREME COURT REMITTITUR	11-30-22	8	1136
SUPREME COURT REMITTITUR	04-04-08	9	149
TRANSCRIPT OF PROCEEDINGS – ARRAIGNMENT – FEB. 13, 2002	03-12-02	2	33-36
TRANSCRIPT OF PROCEEDINGS – MOTION FOR O.R. RELEASE INTO FEDERAL CUSTODY – APRIL 30, 2003	05-13-03	2	150-159
TRANSCRIPT OF PROCEEDINGS – MOTION TO CONFIRM TRIAL – FEB. 26, 2003	03-17-03	2	130-136

APPEAL INDEX  
SUPREME COURT NO: 87505  
DISTRICT CASE NO: CR02-0147  
STATE OF NEVADA vs FERRILL J. VOLPICELLI  
DATE: NOVEMBER 17, 2023

<b>PLEADING</b>	<b>DATE FILED</b>	<b>VOL.</b>	<b>PAGE NO.</b>
TRANSCRIPT OF PROCEEDINGS – MOTION TO CONFIRM TRIAL – MARCH 21, 2003	04-09-03	2	138-144
TRANSCRIPT OF PROCEEDINGS – MOTION TO CONFIRM TRIAL – PETROCELLI HEARING – SEPT. 6, 2002	09-16-02	2	92-97
TRANSCRIPT OF PROCEEDINGS – MOTION TO CONFIRM TRIAL – STATUS HEARING – JUNE 12, 2003	06-18-03	2	162-169
TRANSCRIPT OF PROCEEDINGS – MOTION TO SET TRIAL – OCT. 23, 2002	11-06-02	2	115-119
TRANSCRIPT OF PROCEEDINGS – REPORT ON PSYCHIATRIC EVALUATION – APRIL 19, 2002	05-14-02	2	57-64
TRANSCRIPT OF PROCEEDINGS – REPORT ON PSYCHIATRIC EVALUATION – JUNE 18, 2003	06-23-03	2	170-190
TRANSCRIPT OF PROCEEDINGS – ROUGH DRAFT – APPEAL – JURY TRIAL – JULY 10, 2003	01-12-04	3	399-442
TRANSCRIPT OF PROCEEDINGS – SENTENCING – DEC. 10, 2003	12-16-03	3	357-375
TRANSCRIPT OF PROCEEDINGS – SENTENCING – DEC. 12, 2003	12-22-03	3	376-389
TRANSCRIPT OF PROCEEDINGS – SENTENCING – DEC. 5, 2003	12-11-03	3	323-333
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING / MOTION TO CONFIRM – SEPT. 11, 2002	09-25-02	2	102-113
UNUSED VERDICT FORMS	07-10-03	2	235-236
VERDICT	07-10-03	2	205-206
WAIVE ROF PRELIMINARY EXAMINATION	02-06-02	2	25
WITHDRAWAL OF COUNSEL	11-14-07	9	135-137



FILED

2002 JAN 15 AM 11:51

RONALD A. LONGTIN, JR.

BY                       
DEPUTY

ORIGINAL

CODE 1260  
 Richard A. Gammick  
 #001510  
 P.O. 30083-3083  
 Reno, NV. 89520  
 (775) 328-3200  
 Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No.

CR02-0147

FERRILL VOLPICELLI, (BAC# 60076)

Dept. No. D-9

Defendant.

APPLICATION FOR ORDER TO PRODUCE PRISONER

COMES NOW, the State of Nevada, Plaintiff herein, by  
 and through RICHARD A. GAMMICK, District Attorney of Washoe  
 County, by KRISTIN L. ERICKSON, Deputy District Attorney, and  
 alleges as follows:

1. That the above defendant, FERRILL VOLPICELLI, (BAC#  
 60076) is presently incarcerated at the Nevada State Prison,  
 Carson City, Nevada.

2. That the above FERRILL VOLPICELLI (BAC# 60076) is  
 scheduled for a Preliminary Hearing before the Second Judicial  
 District Court on Thursday, January 31, 2002, at 1:30 p.m.

///

1           WHEREFORE, Applicant prays that an Order be made  
2 ordering the appearance of the said FERRILLI VOLPICELLI (BAC#  
3 60076) before the Second Judicial District Court, and from time  
4 to time thereafter at such times and places as may be ordered and  
5 directed by the Court for such proceedings as thereafter may be  
6 necessary and proper in the premises, and directing the execution  
7 of said Order by the Sheriff of Washoe County, Nevada.

8           DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

9  
10                           RICHARD A. GAMMICK  
11                           District Attorney  
12                           Washoe County, Nevada

13                           By \_\_\_\_\_  
14                           KRISTIN L. ERICKSON  
15                           Deputy District Attorney  
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24  
25

26 DA #213988/RJC #2001-005461

FILED

2002 JAN 23 AM 11:24

RONALD A. LONGTIN, JR.

BY                       
DEPUTY

ORIGINAL

CODE 3340  
 Richard A. Gammick  
 #001510  
 P.O. 30083-3083  
 Reno, NV. 89520  
 (775)328-3200  
 Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILLI VOLICELLI, (BAC# 60076)

Dept No. D-9

Defendant.

ORDER TO PRODUCE PRISONER

IT APPEARING to the satisfaction of the above-entitled  
 Court that it is necessary that the Defendant above named,  
 FERRILLI VOLPICELLI, (BAC# 60076) presently incarcerated in the  
 Nevada State Prison, Carson City, Nevada, be brought before the  
 Second Judicial District Court for a Preliminary Hearing in the  
 above-entitled action,

///

1 NOW, THEREFORE, IT IS HEREBY ORDERED that the Warden of  
2 the Nevada State Prison, Carson City, Nevada, bring the said  
3 prisoner (BAC# 60076) before the Second Judicial District Court  
4 on Thursday, January 31, 2002, at the hour of 1:30 p.m., for a  
5 Preliminary Hearing in the above-entitled action and from time to  
6 time thereafter at such times and places as may be ordered and  
7 directed by the Court for such proceedings as thereafter may be  
8 necessary and proper in the premises.

9 DATED this 18 day of January, 2002.

10  
11 James W. Skelley  
12 DISTRICT JUDGE  
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26

ORIGINAL

FILED

2002 JAN 24 AM 11:57

RONALD A. LONGTIN, JR.

BY                       
DEPUTY

CODE 1260  
 Richard A. Gammick  
 #001510  
 P.O. 30083-3083  
 Reno, NV. 89520  
 (775)328-3200  
 Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL VOLPICELLI, (BAC# 60076)

Dept. No. D-9

Defendant.

AMENDED APPLICATION FOR ORDER TO PRODUCE PRISONER

COMES NOW, the State of Nevada, Plaintiff herein, by  
 and through RICHARD A. GAMMICK, District Attorney of Washoe  
 County, by KRISTIN L. ERICKSON, Deputy District Attorney, and  
 alleges as follows:

1. That the above defendant, FERRILL VOLPICELLI, (BAC#  
 60076) is presently incarcerated at the Nevada State Prison,  
 Carson City, Nevada.

2. That the above FERRILL VOLPICELLI (BAC# 60076) is  
 scheduled for a Preliminary Hearing before the Justice Court of  
 Reno Township on Thursday, January 31, 2002, at 1:30 p.m.

1 WHEREFORE, Applicant prays that an Order be made  
2 ordering the appearance of the said FERRILL VOLPICELLI (BAC#  
3 60076) before the Justice Court of Reno Township, and from time  
4 to time thereafter at such times and places as may be ordered and  
5 directed by the Court for such proceedings as thereafter may be  
6 necessary and proper in the premises, and directing the execution  
7 of said Order by the Sheriff of Washoe County, Nevada.

8 DATED this 24<sup>th</sup> day of January, 2002.

10 RICHARD A. GAMMICK  
11 District Attorney  
12 Washoe County, Nevada

13 By Kristin L. Erickson  
14 KRISTIN L. ERICKSON  
15 Deputy District Attorney  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

26 DA #213988/RJC #2001-005461

FILED

2002 JAN 29 AM 10:13

RONALD A. LONGTIN, JR.

BY                       
DEPUTY

ORIGINAL

CODE 3340  
 Richard A. Gammick  
 #001510  
 P.O. 30083-3083  
 Reno, NV. 89520  
 (775)328-3200  
 Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL VOLPICELLI, (BAC# 60076)

Dept No. D-9

Defendant.

AMENDED ORDER TO PRODUCE PRISONER

IT APPEARING to the satisfaction of the above-entitled  
 Court that it is necessary that the Defendant above named,  
 FERRILL VOLPICELLI, (BAC# 60076) presently incarcerated in the  
 Nevada State Prison, Carson City, Nevada, be brought before the  
 Justice Court of Reno Township for a Preliminary Hearing in the  
 above-entitled action,

///

*James A. Murphy*  
DISTRICT JUDGE



V2.9  
2-13

FILED

2002 FEB -1 AM 10:48

RONALD A. LONGTIN, JR.

BY *[Signature]*  
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF  
NEVADA IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0147

vs.

Dept No. D9

FERRILL JOSEPH VOLPICELLI

Defendant.

APPLICATION FOR SETTING

TYPE OF ACTION:

Criminal

MATTER TO BE HEARD:

Arraignment

DATE OF APPLICATION:

2/1/02

COUNSEL FOR DEFENDANT(S):

*Jack Olson*

Setting at 08:30:00 on 2/13/02

V2.9

## MESSAGE CONFIRMATION

02/05/02 15:31

ID=2ND JUD DIST COURT-CRIM DIVISION

DATE	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT	
02/05	01'21"	93240722	CALLING	05	OK	0000

CD 02-0147  
V2-11

NO. RCR 2001-005461  
DEPARTMENT NO. 5

In the Justice Court of Reno Township, County of Washoe,  
STATE OF NEVADA

FILED  
2002 FEB -4 PM 3:19

RONALD A. LONGTIN, JR.

The State of Nevada

PLAINTIFF

COMPLAINT OF

Kristin L. Erickson

AGENCY NO. RPD RP01-213180

VS.

FERRILL JOSEPH VOLPICELLI

DEFENDANT

81788376

81625263

DA'S NO. 213988

ATTORNEY FOR PLAINTIFF

DISTRICT ATTORNEY: Kristin L. Erickson

ATTORNEY FOR DEFENDANT:  
BRUCE LINDSAY, ESQ.  
PAUL GIESE, ESQ.,

CHARGING: INDECENT EXPOSURE, a violation of NRS 201.220, a felony.

DATE  
2001

PROCEEDINGS

J = Judge; P = Prosecutor; D = Defendant; CR = Court Reporter; I = Interpreter; DC = Defense Counsel; DDA = Deputy District Attorney; DAG = Deputy Attorney General; DPD = Deputy Public Defender; CA = Conflict Attorney; PT = Pro Tem Judge

Oct. 19 Probable Cause Affidavit reviewed by Judge.  
Probable Cause found.

Oct. 22 Complaint filed and Defendant in custody.

Oct. 23 J: J. Schroeder CR: D. Frather  
P: DDA None I: None  
D: Ferrill J. Volpicelli DC: None

Defendant duly arraigned, advised of rights and informed of Complaint. Preliminary Examination set for November 5, 2001, at 10:00 A.M. Bail set at \$2,000.00. Defendant remanded to the custody of the Washoe County Sheriff.

Defendant requested appointment of the Washoe County Public Defender.

Oct. 31 Washoe County Public Defender appointed.

Nov. 5 Washoe County Public Defender has appointed a Conflict Attorney to represent defendant.

Nov. 5 Conflict Attorney Paul Giese, Esq., appointed to represent defendant.

Nov. 5 Upon Stipulation of Counsel, the Preliminary Examination is continued to November 29, 2001, at 1:30 P.M. Defendant remanded to the custody of the Washoe County Sheriff. 11/7

\*Nov. 2 Probable Cause Affidavit reviewed by Judge.  
Probable Cause found.

Nov. 6 J: J. Schroeder CR: L. Urmston  
P: DDA D. Dreiling I: None  
D: Ferrill J. Volpicelli DC: None

Defendant appeared for arraignment at the end of 72 hours. The State requested until 3:30 P.M. to file a Criminal Complaint and have the formal arraignment. Good cause appeared and arraignment was continued to November 8, 2001 at 10:00 A.M.

V2-11

CR02-0147  
DC-09900055260-082  
STATE VS. FERRILL JOSEPH VOLPICELLI  
District Court  
Washoe County  
02/04/2002 03:19 PM  
3700  
MTNDEES

Nov. 8

J: J. Schroeder  
P: DDA K. Hall  
D: Ferrill J. Volpicelli

CR: L. Urnston  
I: None  
DC: None

Defendant appeared for arraignment at the end of 72 hours. The State requested until 3:30 P.M. to file a Criminal Complaint and have the formal arraignment. Good cause appeared and arraignment was continued to November 9, 2001 at 10:00 A.M.

Nov. 8

AMENDED CRIMINAL COMPLAINT FILED ADDING COUNTS II and III AS FOLLOWS: CT.II.OPEN OR GROSS LEWDNESS, a violation of NRS 201.210; CT.III.INDECENT EXPOSURE, a violation of NRS 201.220; both felonies.

Nov. 9

J: E. Dannan  
P: DDA None  
D: Ferrill J. Volpicelli

CR: D. Prather  
I: None  
DC: None

Defendant duly arraigned on the AMENDED criminal complaint, advised of rights and informed of Complaint. Preliminary Examination remains set for November 29, 2001, at 1:30 P.M. Defendant remanded to the custody of the Washoe County Sheriff.

Nov. 14

Washoe County Public Defender appointed.

Nov. 29

Upon Stipulation of Counsel, the Preliminary Examination is continued to December 20, 2001, at 1:30 P.M. Defendant remanded to the custody of the Washoe County Sheriff. 12/5

Dec. 10 Substitution of Attorney filed.

Dec. 20 Motion to withdraw as counsel of record filed.

Dec. 20

Upon stipulation of Counsel, the Preliminary Examination continued to January 31, 2002, at 1:30 P.M. Defendant remanded to the custody of the Washoe County Sheriff. 12/24

---

 2002

Jan. 31

COPY OF WAIVER OF PRELIMINARY EXAMINATION DELIVERED TO THE COURT

V2.13

VOLPICELLI, FERRILL JOSEPH

Assigned CSO: AS

**Case#/Charges Information -**

<b>Case#</b>	<b>Case Type</b>
01-1309	PROBATION/PAROLE VIOLATION
<b>Court</b>	<b>Courthouse</b>
NO COURT	

<b>-- CHARGE --</b>	<b>Charge Type</b>	<b>Date</b>	<b>Count</b>
PAROLE VIOLATION	FELONY	10/18/01	1
<b>Charge Note -</b>			
NO BAIL - ORIG CHG BURG			

<b>Case#</b>	<b>Case Type</b>
RCR01-005461D-5	FELONY
<b>Court</b>	<b>Courthouse</b>
RENO JUSTICE COURT	

<b>-- CHARGE --</b>	<b>Charge Type</b>	<b>Date</b>	<b>Count</b>
INDECENT OR OBSCENE EXPOSURE	FELONY	10/18/01	
<b>Bond Type</b>	<b>Bond Amount</b>		
Bondable	\$2,000.00		

**Charge Note -**  
ADDBOOKED ON 10/18/01  
2ND OFFENCE

<b>-- CHARGE --</b>	<b>Charge Type</b>	<b>Date</b>	<b>Count</b>
BURGLARY	FELONY	10/18/01	
<b>Bond Type</b>	<b>Bond Amount</b>		
Bondable	\$3,500.00		

**Charge Note -**  
ADDBOOKED ON 10/18/01

<b>-- CHARGE --</b>	<b>Charge Type</b>	<b>Date</b>	<b>Count</b>
BURGLARY (CONSPIRACY)	GROSS MISDEMEANOR	10/18/01	
<b>Bond Type</b>	<b>Bond Amount</b>		
Bondable	\$1,000.00		

**Charge Note -**  
ADDBOOKED ON 10/18/01

<b>-- CHARGE --</b>	<b>Charge Type</b>	<b>Date</b>	<b>Count</b>
UTTERING FORGED INSTRUMENTS	FELONY	10/18/01	
<b>Bond Type</b>	<b>Bond Amount</b>		
Bondable	\$2,500.00		

**Charge Note -**  
ADDBOOKED ON 10/18/01

<b>-- CHARGE --</b>	<b>Charge Type</b>	<b>Date</b>	<b>Count</b>
UNLAWFUL POSSESSION BURGLARY TOOLS	GROSS MISDEMEANOR	10/18/01	
<b>Bond Type</b>	<b>Bond Amount</b>		
Bondable	\$1,000.00		

**Charge Note -**  
ADDBOOKED ON 10/18/01

<b>-- CHARGE --</b>	<b>Charge Type</b>	<b>Date</b>	<b>Count</b>
BURGLARY	FELONY	10/18/01	
<b>Bond Type</b>	<b>Bond Amount</b>		
Bondable	\$3,500.00		

V2. 13

VOLPICELLI, FERRILL JOSEPH

Assigned CSO: AS

## Charge Note -

ADDBOOKED ON 10/18/01

## -- CHARGE --

UTTERING FORGED INSTRUMENTS

## Charge Type

FELONY

## Date

10/18/01

## Count

## Bond Type

Bondable

## Bond Amount

\$2,500.00

## Charge Note -

ADDBOOKED ON 10/18/01

## -- CHARGE --

UNLAWFUL POSSESSION BURGLARY TOOLS

## Charge Type

GROSS MISDEMEANOR

## Date

10/18/01

## Count

## Bond Type

Bondable

## Bond Amount

\$1,000.00

## Charge Note -

ADDBOOKED ON 10/18/01

## Case#

01-217923

## Case Type

FELONY

## Court

RENO JUSTICE COURT

Courthouse

## -- CHARGE --

INDECENT OR OBSCENE EXPOSURE

## Charge Type

FELONY

## Date

11/01/01

## Count

## Bond Type

Bondable

## Bond Amount

\$2,000.00

## Charge Note -

ADDBOOK 11/1/01

## Case#

HOLD

## Case Type

OUTSIDE HOLD - FELONY

## Court

OUTSIDE JURISDICTION

Courthouse

## -- CHARGE --

OUT OF COUNTY HOLD

## Charge Type

## Date

11/06/01

## Count

1

## Bond Type

No Bail

## Bond Amount

\$0.00

## Charge Note -

NO BAIL HOLD, FOR USM, UNKNOWN CHARGE

## Case#

01219147

## Case Type

FELONY

## Court

RENO JUSTICE COURT

Courthouse

## -- CHARGE --

BURGLARY

## Charge Type

FELONY

## Date

11/07/01

## Count

1

## Bond Type

Bondable

## Bond Amount

\$3,500.00

## -- CHARGE --

AIDING &amp; ABETTING A CRIME

## Charge Type

FELONY

## Date

11/07/01

## Count

1

## Bond Type

Bondable

## Bond Amount

\$2,000.00

V2.15

VOLPICELLI, FERRILL JOSEPH

Assigned CSO: AS

-- CHARGE --

POSSESSING/RECEIVING FORGED INSTRUMENTS OR BILLS

Charge Type

Date

Count

11/07/01

1

Bond Type

Bond Amount

Bondable

\$2,500.00

-- CHARGE --

UTTERING FORGED INSTRUMENTS

Charge Type

Date

Count

FELONY

11/07/01

1

Bond Type

Bond Amount

Bondable

\$2,500.00

Case#

01-205242

Case Type

FELONY

Court

Courthouse

RENO JUSTICE COURT

-- CHARGE --

OPEN AND GROSS LEWDNESS

Charge Type

Date

Count

FELONY

11/09/01

1

Bond Type

Bond Amount

Bondable

\$2,000.00

Case#

01-220307

Case Type

FELONY

Court

Courthouse

RENO JUSTICE COURT

-- CHARGE --

BURGLARY

Charge Type

Date

Count

FELONY

11/16/01

1

Bond Type

Bond Amount

Bondable

\$3,500.00

Charge Note -

ADD BOOKED 11/15/01 - RPD

-- CHARGE --

UTTERING FORGED INSTRUMENTS

Charge Type

Date

Count

FELONY

11/16/01

2

Bond Type

Bond Amount

Bondable

\$5,000.00

Charge Note -

ADD BOOKED 11/15/01 - RPD (2 CTS)

Case#

RCR2001-6200

Case Type

FELONY

Court

Courthouse

RENO JUSTICE COURT

-- CHARGE --

BURGLARY

Charge Type

Date

Count

FELONY

11/21/01

2

Bond Type

Bond Amount

Bondable

\$7,000.00

-- CHARGE --

UTTERING FORGED INSTRUMENTS

Charge Type

Date

Count

FELONY

11/21/01

3

Bond Type

Bond Amount

Bondable

\$7,500.00

V2.15

V2.16

VOLPICELLI, FERRILL JOSEPH

Assigned CSO: AS

Case#

Case Type

RCR2001-006427

FELONY

Court

Courthouse

RENO JUSTICE COURT

---

-- CHARGE --

AIDING &amp; ABETTING A CRIME

Charge Type

FELONY

Date

12/05/01

Count

Bond Type

Bond Amount

Bondable

\$3,500.00

Charge Note -

ADDBOOKED ON 12/05/01

## -- CHARGE --

AIDING &amp; ABETTING A CRIME

Charge Type

FELONY

Date

12/05/01

Count

Bond Type

Bond Amount

Bondable

\$2,500.00

Charge Note -

UFI/ADDBOOKED ON 12/05/01

---

**Release Recommendations/Conditions Of Bond -**

Date

Recommendation

Staff

10/18/01

PROBATION OR PAROLE VIOLATION

Strong, Anita

Recommendation Notes -

ADDBOOKED ON 10/18/01



VOLPICELLI, FERRILL JOSEPH

Assigned CSO: AS

**Demographics -**

SSN	FBI/NCIC	Assigned CSO	Booking #	HIT LIST?	Interpreter Needed?
		AS	0119280		
Arresting Agency	Place of Birth	Citizen Of			
RPD	SYRACUSE, NY	USA-Doc:			
Language	Race	Gender	DOB	Age	
ENGLISH	WHITE	Male	12/30/55	45	
Height	Weight	Eyes	Hair	Marital	
509	159	HZL	BRN	MARRIED	
#Dependants	Ages	Live With Defendant?			
4	18, 14, 13, 5	Yes			

**Residence -**

Current Address -	Phone	Since	Verified
2955 LAKESIDE DR RENO, NV 89509		0 Yr 0 Mo	N

Prior Addresses -	Phone	From/To	Verified
2705 CAMELOT WAY RENO, NV 89509	(702) 789-2622	02/88-08/98	N

With  
WIFE - Name: LORI VOLPICELLI

Address Note --  
WIFE IS ALLEDGED VICTIM

Prior Addresses -	Phone	How Long	Verified
		0 Yrs 0 Mos	N

Prior Addresses -	Phone	How Long	Verified
FCI STAFFORD, AZ , NV		0 Yrs 0 Mos	N

**Employment/Support -**

Current Employment Status -	How Long	
Unemployed	0 Yrs 0 Mos	N

**Unemployment Details -**

Prior Employment -	From/To	Occupation	Verified
Employed: Full-Time	- 08/98		N

Employment Details  
SELF

Hours per: 60 Last Worked: 04/08/97

**Employment Note --**

CC COMPANY 828-4567  
ALSO REAL ESTATE AND INSUARANCE SALES OUT OF HOME

Prior Employment -	From/To	Occupation	Verified
Employed	- 10/01	PRISONER	N

Employment Details  
FEDERAL PRISONER

V2.18

VOLPICELLI, FERRILL JOSEPH

Assigned CSO: AS

**Education -****Education**

Completed: High School

College Grad - Degree: MS BUSINESS Highest Grade Completed: 18

**Substance Abuse History -****Usage:**

No Substance Abuse Data On File

**Criminal History -**

Date	Charges	Disposition
	PER DEFENDANT - UNVERIFIED	

07/96 PERJURY/SUBORNATION

**Criminal History Note --**

Notes - TAX PERJURY; WIRE FRAUD; OTHER FEDERAL CHARGES--PER DEF HE HAS PLED AND IS AWAITING SENTENCING--UNK SENTENCING DATE IN MAY--JEROME POLAHA IS HIS ATTORNEY

PETITE THEFT '85

'92 COMMERCIAL BURGL--PROBATION--SUCCESSFUL

INDECENT EXPOSURE '81--PROBATION

04/97 BATTERY

01/98 BURGLARY ; AIDING &amp; ABETTING A CRIME ; UNLAWFUL POSSESSION BURGLARY TOOLS

01/98 DEFAULT CHARGE TYPE FOR BOOKING USE

08/98 DEFAULT CHARGE TYPE FOR BOOKING USE

08/98 FAILURE TO APPEAR AFTER ADMISSION TO BAIL

08/98 DEFAULT CHARGE TYPE FOR BOOKING USE

**Character References -**

Name	Relationship	How Long Alt Contact	Phone
FERRILL VOLPICELLI	PARENT/S		(310) 543-1211
Address: TORRANCE, CA			

Client: VOLPICELLI, FERRILL JOSEPH

SSN:

DOB: 12/30/55

Assigned CSO: AS

Case#: 01-1309; RCR01-005461D-5; 01-217923; HOLD; 01219147; 01-205242;

**I. Identification**

County:

Court:

RENO JUSTICE COURT

Jurisdiction:

WASHOE COUNTY, NV

Case Type:

FELONY

Charge(s):

PAROLE VIOLATION; INDECENT OR OBSCENE EXPOSURE; BURGLARY; BURGLARY (CONSPIRACY); UTTERING FORGED INSTRUMENTS;

Address:

Phone:

2955 LAKESIDE DR RENO, NV 89509 - Since: Length: 0 Yrs 2 Months

Occupation and Employer:

Unemployed Since:

**II. Support Obligations**

Juvenile Client? No Lives w/parents? No

Dependants: Total# 4 Ages 18, 14, 13, 5 Live w/client Yes

**III. Presumptive Eligibility****IV. Monthly Income**

Verified

Take-home pay (after deductions) \_\_\_\_\_

Spouses take-home pay \_\_\_\_\_

Contributions from any persons domiciled with client and helping to defray basic living costs \_\_\_\_\_

Interest, dividends, or other earnings \_\_\_\_\_

Non-poverty based assistance (Unemployment, Social Security, Workers Comp, pension, annuities) \_\_\_\_\_

Other income: \_\_\_\_\_

Notes:

Total Monthly Income:

**V. Monthly Expenses**

Verified

Basic Living Costs

Shelter (rent,mortgage,board) \_\_\_\_\_

Utilities \_\_\_\_\_

Food \_\_\_\_\_

Clothing \_\_\_\_\_

Health Care \_\_\_\_\_

Transportation \_\_\_\_\_

Loan payments: \_\_\_\_\_

Court Imposed Obligations

Bail/bond paid or anticipated \_\_\_\_\_

Other expenses \_\_\_\_\_

Notes:

Total Monthly Expenses:

V2. 20

Client: VOLPICELLI, FERRILL JOSEPH

SSN:

B: 12/30/55

Assigned CSO: AS

Case(s): 01-1309; RCR01-005461D-5; 01-217923; HOLD; 01219147; 01-205242;

## VI. Total Income Part IV, minus Total Expenses Part V

Disposal Net Monthly Income:

## VII. Liquid Assets

Verified

Cash, savings, bank accounts (including joint accounts) \_\_\_\_\_

Stocks, bonds, certificates of deposit: \_\_\_\_\_

Equity in real estate: \_\_\_\_\_

Equity in motor vehicle required for employment: Type: - Year: - Color \_\_\_\_\_

Equity in additional vehicles \_\_\_\_\_

Personal property: \_\_\_\_\_

Notes: \_\_\_\_\_

Total Liquid Assets:

## VIII. Affidavit and Notification

I hereby apply for appointment of the Washoe County Public Defender and state under penalty of perjury: (1) I am indigent; and (2) I am without financial means to hire an attorney because: (a) I have no personal funds and no family or friends who can hire an attorney for me and/or (b) I have no assets of any kind in this state or elsewhere which can be used to hire an attorney.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_ Place: \_\_\_\_\_  
 FERRILL JOSEPH VOLPICELLI

## IX. Determination of Indigency

a. Disposable Net Monthly Income (from Section VI) \_\_\_\_\_

b. Total Liquid Assets (from Section VII) \_\_\_\_\_

c. Total Available Funds (a plus b) \_\_\_\_\_

d. Anticipated Cost of Counsel for Offense Type(s) \_\_\_\_\_

Determination: \*\* INDIGENT \*\*

Assessment Amount:

## X. Recommendation

MR. VOLPICELLI HAS NO INCOME OR ASSETS AND REMAINS IN CUSTODY AS OF 12-3-2001 ON NUMEROUS CHARGES. HE APPEARS TO QUALIFY FOR THE P.D.

The above constitutes my recommendation to the court. I have explained my recommendation to the party.

Screening Agent/Witness: Scheiber, Matthew

Date: 12/12/01

Signature: \_\_\_\_\_

Agency/Organization: Washoe County, Nevada (Server)

## XI. Finding

Indigent

Not Indigent

Indigent and Able to Contribute

Assesment Amount: \$ \_\_\_\_\_

Judge or Judge's Designee: \_\_\_\_\_

Title: \_\_\_\_\_

V2. 20

ORIGINAL

FILED

2002 FEB -6 PM 3:53

RONALD A. LONGTIN, JR.

BY *[Signature]*  
DEPUTY

DA #213988

RPD RP01-213180  
RP01-217923CODE 1800  
Richard A. Gammick  
#001510  
P.O. Box 30083  
Reno, NV 89520-3083  
(775) 328-3200  
Attorney for PlaintiffIN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

Defendant.

INFORMATION

RICHARD A. GAMMICK, District Attorney within and for the County of Washoe, State of Nevada, in the name and by the authority of the State of Nevada, informs the above entitled Court that FERRILL JOSEPH VOLPICELLI, the defendant above named, has committed the crimes of:

COUNT I. INDECENT EXPOSURE, a violation of NRS 201.220, a felony, (F570) in the manner following:

That the said defendant on the 25th day of September A.D. 2001, or thereabout, and before the filing of this Information, at and within the County of Washoe, State of Nevada, did willfully and unlawfully make an open and indecent or obscene

1 exposure of his person to Detective PATRICIA BROWN at the parking  
2 lot of 5150 Mae Anne Boulevard, County of Washoe, State of  
3 Nevada, in that the defendant did masturbate in  
4 his car, after having been previously convicted of Indecent  
5 Exposure on November 22, 1984, for an offense which occurred on  
6 April 15, 1983, in Sparks, Nevada.

7 <sup>155</sup> COUNT II. OPEN OR GROSS LEWDNESS, a violation of NRS  
8 201.210, a felony, in the manner following:

9 That the said defendant on the 27th day of September  
10 A.D. 2001, or thereabout, and before the filing of this  
11 Information, at and within the County of Washoe, State of Nevada,  
12 did willfully and unlawfully commit an act of open or gross  
13 lewdness at the SAFEWAY parking lot, 10500 North McCarran  
14 Boulevard, Reno, Washoe County, Nevada, in that the said  
15 defendant did masturbate inside his car, after having been  
16 previously convicted of Indecent Exposure on November 22, 1984,  
17 for an offense which occurred on April 15, 1983, in Sparks,  
18 Nevada.

19 <sup>1570</sup> COUNT III. INDECENT EXPOSURE, a violation of NRS  
20 201.220, a felony, in the manner following:

21 That the said defendant on the 27th day of September  
22 A.D. 2001, or thereabout, and before the filing of this  
23 Information, at and within the County of Washoe, State of Nevada,  
24 did willfully and unlawfully make an open and indecent or obscene  
25 exposure of his person at the SAFEWAY parking lot, 10500 North  
26 McCarran Boulevard, Reno, County of Washoe, State of Nevada, in

1 that the defendant did masturbate inside his car, after having  
2 been previously convicted of Indecent Exposure on November 22,  
3 1984, for an offense which occurred on April 15, 1983, in Sparks,  
4 Nevada.

5  
6 All of which is contrary to the form of the Statute in  
7 such case made and provided, and against the peace and dignity of  
8 the State of Nevada.

9 RICHARD A. GAMMICK  
10 District Attorney  
11 Washoe County, Nevada

12 By: 

13 KRISTIN L. ERICKSON

14 4258

15 Deputy District Attorney  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1           The following are the names and addresses of such  
2 witnesses as are known to me at the time of the filing of the  
3 within Information:

4  
5 RENO POLICE DEPARTMENT

6 PATRICIA BROWN  
7 ADAM WYGNANSKI


8 WASHOE COUNTY SHERIFF'S OFFICE

9 BRIAN PHAY

10 WASHOE COUNTY CRIME LAB

11 SUZANNE HARMON  
12  
13  
14  
15  
16  
17  
18

19 RICHARD A. GAMMICK  
20 District Attorney  
21 Washoe County, Nevada

22 By   
23 KRISTIN L. ERICKSON  
24 4258  
25 Deputy District Attorney

26 PCN 81788376

PCN 81625263

02041180



In the Justice Court of Reno Township  
County of Washoe, State of Nevada

2002 FEB -6 PM 3: 53

ORIGINAL  
BY: [illegible] LONGTIN, JR.  
DEPUTYNo. 2001 - 5461CR02-0147  
THE STATE OF NEVADA,

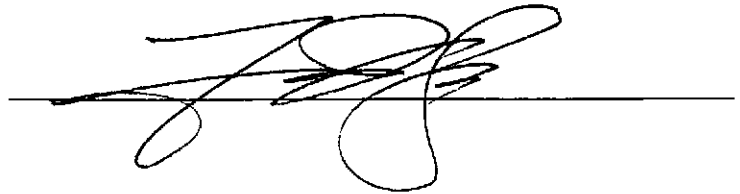
Plaintiff,

vs.

Ferrill Joseph Volpicelli  
Defendant.

### Waiver of Preliminary Examination

I, the Defendant in the above-entitled action, being fully advised of my rights in the premises,  
hereby waive my preliminary examination on the charge of Indecent Exposure, et al.  
in the above entitled action, and consent that I may be remanded to the Second Judicial District Court of  
the State of Nevada, for further proceedings therein.

DATE: 1/31/02

DC-09900055260-081  
STATE VS FERRILL JOSEPH VOLPI  
District Court 02/06/2002 02:07 PM  
Washoe County 4265  
NAC

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

02/13/02

ARRAIGNMENT

HONORABLE

Deputy District Attorney Kristin Erickson represented the State.

3/15/2002

JAMES W.

Jack Alian, Esq. represented the Defendant who was not present.

08:30 a.m.

HARDESTY

Probation Officer Shane Lees was also present.

Report of

DEPT. NO. 9

Defense counsel addressed the Court regarding Defendant's

Psychiatric

C. Wynn

absence advising that the Defendant may be in prison and further

Evaluation

T. Prince

moved for a psychiatric evaluation. Counsel for the State had no

(Clerk)

objection.

D. Davidson

COURT ORDERED: Motion for a psychiatric evaluation

(Reporter)

GRANTED. Matter continued.

CR02-0147  
STATE VS FERRILL JOSEPH VOLPI  
District Court  
Washoe County  
NVC  
OC-09900055303-113  
Page  
02/13/2002 08:30 AM  
MIN  
MTNDEC

CR02-0147  
STATE VS FERRILL  
District Court  
Washoe County  
NV

DC-09900055739-038  
JOSEPH VOLP 3 Pages  
02/13/2002 12:32 PM  
2170  
clmrrp

2170  
JACK ANTHONY ALIAN  
NEVADA STATE BAR NO 1434  
360 WEST LIBERTY STREET  
RENO, NV 89501  
775-786-4211

2002 FEB 13 PM 12:32

RONALD A. LONGHILL, JR.

BY El Bullera  
DEPUTY

ATTORNEY FOR DEFENDANT

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

\*\*\*

THE STATE OF NEVADA,

Plaintiff

vs.

CASE NO. CR02-0146/0147/0148/0301  
DEPT NO. 9

FERRILL JOSEPH VOLPICELLI,

Defendant.


IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

**MOTION FOR APPOINTMENT OF PSYCHIATRISTS FOR  
EXAMINATION OF DEFENDANT**

COMES NOW, FERRILL JOSEPH VOLPICELLI, Defendant, by and through  
his attorney, JACK ANTHONY ALIAN, hereby moves the Court for an Order

1 appointing two qualified psychiatrists to conduct an examination into the mental  
2 condition of said Defendant. This Motion is based upon the attached Affidavit of  
3 counsel and oral argument at the time for the hearing on said Motion.

4 DATED this 8<sup>th</sup> day of Feb, 2002.

5  
6  
7   
8 Jack Anthony Alian, ESQ.  
9 Attorney for Defendant  
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28

AFFIDAVIT

STATE OF NEVADA )  
 )ss.  
 COUNTY OF WASHOE )

JACK ANTHONY ALIAN, being duly sworn, does hereby swear under the penalties of perjury that the allegations of this Affidavit are true:

1. This Affiant is licensed to practice in the State of Nevada.

2. That this Affiant is attorney of record for the Defendant, FERRILL JOSEPH VOLPICELLI;

3. That during Affiant's most recent contact with the defendant, in preparation for this matter, he has exhibited changes in personality, and an inability to assist your affiant in a meaningful fashion ; it is this Affiant's observation that the Defendant may be unable to assist me in any meaningful way with the preparation of his defense and may be unable to understand right from wrong;

5. Thus, Affiant respectfully asks the Court that all proceedings be terminated for the time being until the Defendant can be evaluated by two psychiatrists as to his mental competency.

DATED this 8 day of Feb, 2002.

Jack Alian  
 JACK ALIAN

SUBSCRIBED and SWORN before me  
 this 8<sup>th</sup> day of February 2002.

Leslie Schuh  
 NOTARY PUBLIC



ORIGINAL

FILED

FEB 13 2002

RONALD A. LONGTIN, JR. CLERK  
By: *[Signature]*  
DEPUTY

2170  
JACK ANTHONY ALIAN  
NEVADA STATE BAR NO 1434  
360 WEST LIBERTY STREET  
RENO, NV 89501  
775-786-4211

ATTORNEY FOR DEFENDANT

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

\*\*\*

THE STATE OF NEVADA,

Plaintiff

vs.

CASE NO. CR02-0146/0147/0148/0301<sup>0145</sup>  
DEPT NO. 9

FERRILL JOSEPH VOLPICELLI,

Defendant.

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE


**MOTION FOR APPOINTMENT OF PSYCHIATRISTS FOR  
EXAMINATION OF DEFENDANT**

COMES NOW, FERRILL JOSEPH VOLPICELLI, Defendant, by and through  
his attorney, JACK ANTHONY ALIAN, hereby moves the Court for an Order

CR02-0147  
STATE VS FERRILL JOSEPH VOLP 3 Pages  
District Court 02/13/2002 03:01 PM  
Washoe County  
2170  
MTAGDET

1 appointing two qualified psychiatrists to conduct an examination into the mental  
2 condition of said Defendant. This Motion is based upon the attached Affidavit of  
3 counsel and oral argument at the time for the hearing on said Motion.

4 DATED this 8<sup>th</sup> day of Feb., 2002.

5  
6  
7  
8   
9 Jack Anthony Alian, ESQ.  
Attorney for Defendant

AFFIDAVIT

STATE OF NEVADA )

)ss.

COUNTY OF WASHOE )

JACK ANTHONY ALIAN, being duly sworn, does hereby swear under the penalties of perjury that the allegations of this Affidavit are true:

1. This Affiant is licensed to practice in the State of Nevada.

2. That this Affiant is attorney of record for the Defendant, FERRILL JOSEPH VOLPICELLI;

3. That during Affiant's most recent contact with the defendant, in preparation for this matter, he has exhibited changes in personality, and an inability to assist your affiant in a meaningful fashion ; it is this Affiant's observation that the Defendant may be unable to assist me in any meaningful way with the preparation of his defense and may be unable to understand right from wrong;

5. Thus, Affiant respectfully asks the Court that all proceedings be terminated for the time being until the Defendant can be evaluated by two psychiatrists as to his mental competency.

DATED this 8 day of Feb, 2002.

Jack Alian  
JACK ALIAN

SUBSCRIBED and SWORN before me

this 8th day of February 2002.

Leslie Schuh  
NOTARY PUBLIC





ORIGINAL FILED

MAR 12 2002

RONALD A. WONGTIN, JR., CLERK  
By:         
DEPUTY

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0145

CR02-0146

CR02-0147

CR02-0148

vs.

Dept. No. 9

FERRILL JOSEPH VOLPICELLI,

Defendant.

ARRAIGNMENT

FEBRUARY 13, 2002

RENO, NEVADA

## APPEARANCES:

For the Plaintiff:

KRISTIN L. ERICKSON  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

For the Defendant:

JACK A. ALIAN  
Attorney at Law  
360 W. Liberty Street  
Reno, Nevada 89501

Reported by:

DONNA DAVIDSON, CCR #318, RMR, CRR  
Computer-Aided TranscriptionCR02-0147  
STATE VS FERRILL JOSEPH VOLPICELLI  
District Court  
Washoe County  
03/12/2002 09:50 AM  
4165  
MTNDDTC

1 RENO, NEVADA, WEDNESDAY, FEBRUARY 13, 2002, 9:28 A.M.

2 --oOo--

3  
4 THE COURT: State versus Ferrill Volpicelli  
5 CR02-0145, CR02-0146, CR02-0147, CR02-0148.

6 This is the time set for arraignment in this  
7 matter.

8 Ms. Erickson is here for the State, Mr. Lees is  
9 here for the Division, Mr. Alian is here for Mr. Volpicelli.

10 Is Mr. Volpicelli present?

11 MR. ALIAN: Your Honor, apparently he is not. We  
12 had last heard that he was in the Washoe County Jail, but we  
13 now learned he may have been transported to the prison in  
14 which case there wasn't a prison transport today.

15 In addition, Your Honor, I would further indicate  
16 to the Court that today I was going to file in open court a  
17 motion for psychiatric examination for the defendant if the  
18 Court would permit me to do that in spite of the fact he  
19 isn't here.

20 At this point at least we would get something  
21 started with respect to Mr. Volpicelli in this court, unless  
22 the Court has some opposition to that.

23 THE COURT: Ms. Erickson?

24 MS. ERICKSON: Your Honor, the State does not

1 oppose a motion by Mr. Alian.

2 THE COURT: All right. The Court will enter an  
3 order calling for a psychiatric evaluation of  
4 Mr. Volpicelli.

5 I'll set a hearing on that subject and on the  
6 continued arraignments then for probably March 15th,  
7 Mr. Alian? Give you enough time?

8 MR. ALIAN: Your Honor, it gives me more than  
9 enough time. I'm just hoping -- I know that Lakes Crossing  
10 does go out to the prison. I just don't know if it will  
11 give them enough time.

12 THE COURT: All right. March 15 at 8:30, but if  
13 that presents a problem, why you can continue it by  
14 stipulation.

15 MR. ALIAN: Would the Court allow me to file the  
16 order -- or the motion now in open court?

17 THE COURT: Yes, sir. And I'll sign the order if  
18 you have it.

19 MR. ALIAN: I do, Your Honor.

20 (Proceedings concluded.)

21 --oOo--

22

23

24

1 STATE OF NEVADA            )  
                                  )    ss.  
2 COUNTY OF WASHOE        )

3           I, DONNA DAVIDSON, Official Reporter of the Second  
4 Judicial District Court of the State of Nevada, in and for  
5 the County of Washoe, do hereby certify:

6           That as such reporter, I was present in Department  
7 No. 9 of the above court on said date, time and hour, and I  
8 then and there took verbatim stenotype notes of the  
9 proceedings had and testimony given therein.

10           That the foregoing transcript is a full, true and  
11 correct transcript of my said stenotype notes, so taken as  
12 aforesaid.

13           That the foregoing transcript was taken down under  
14 my direction and control, and to the best of my knowledge,  
15 skill and ability.

16  
17           DATED: At Reno, Nevada, this 4th day of March,  
18 2002.

19  
20  
21  
22  
23  
24

  
DONNA DAVIDSON, CCR #318

ORIGINAL

FILED

MAR 15 2002

RONALD A. LONGTIN, JR., CLERK  
By: *[Signature]*  
DEPUTY

1 CODE 4045  
 2 JACK ALIAN  
 3 Nevada State Bar No. 1434  
 4 360 W. Liberty Street  
 5 Reno, NV 89501  
 6 775-786-4211  
 7 ATTORNEY FOR FERRILL JOSEPH VOLPICELLI

8  
 9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
 10  
 11 IN AND FOR THE COUNTY OF WASHOE

12  
 13 STATE OF NEVADA,

14 Plaintiff,

15 v.

CASE NO.: CR02-<sup>0145</sup>  
 0146/0147/0148/0301

16  
 17 FERRILL JOSEPH VOLPICELLI,

DEPT. NO.: 9

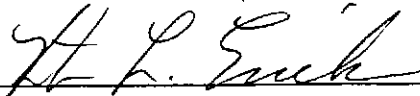
18 Defendant.  
 19 \_\_\_\_\_/

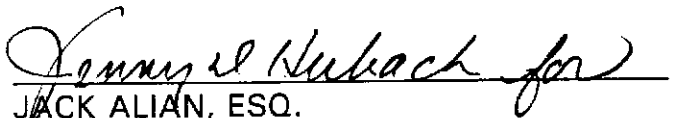
20 STIPULATION AND REQUEST FOR CONTINUANCE  
 21 and ORDER

22 COMES NOW, the Defendant, above named, by and through his  
 23 counsel, JACK ALIAN, ESQ., and the Plaintiff, STATE OF NEVADA, by and  
 24 through its counsel, KRISTEN ERICKSON, Chief Deputy District Attorney, and  
 25 hereby stipulate and agree to continue the Motion for Psychiatric Evaluation, in  
 26 the above-named case heretofore set for MARCH 15, 2002, AT 8:30 A.M.  
 27  
 28

1 This stipulation is based upon the fact the doctor's need additional time to  
2 conduct the testing necessary for the competency evaluations.

3 DATED THIS 12TH DAY OF MARCH, 2002.  
4

5   
6 KRISTEN ERICKSON, Chief  
7 Deputy District Attorney  
8 75 Court Street  
9 Reno, NV 89501  
10 Attorney for Plaintiff  
11 (775) 328-3200

12   
13 JACK ALIAN, ESQ.  
14 360 West Liberty Street  
15 Reno, Nevada 89501  
16 Attorney for Defendant  
17 (775) 786-4211  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 CODE 4025  
2 JACK ALIAN  
3 Nevada State Bar No. 1434  
4 360 W. Liberty Street  
5 Reno, NV 89501  
6 775-786-4211

7  
8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
9 IN AND FOR THE COUNTY OF WASHOE

10  
11 STATE OF NEVADA,

12  
13 Plaintiff,

14 v.

CASE NO.: CR02-0146/0147/0148

0301

15 FERRILL JOSEPH VOLPICELLI,

DEPT. NO.: 9

16  
17 Defendant.  
18

19 ORDER

20 GOOD CAUSE APPEARING it is hereby Ordered that the MOTION FOR  
21 PSYCHIATRIC EXAMINATION regarding FERRILL JOSEPH VOLPICELLI,  
22 heretofore set for MARCH 15, 2002, be vacated and  
23 rescheduled to APRIL 19, 2002 AT 8:30 A.M.

24  
25 DATED this 14 day of March, 2002.

26  
27   
28 DISTRICT JUDGE

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

04/19/2002

REPORT ON PSYCHIATRIC EVALUATIONS/ARRAIGNMENT

HONORABLE

Deputy District Attorney Janice Hubbard was present on behalf of  
the State. Defendant was present with counsel, Jack Alian, Esq.

09/06/2002

JAMES W.

The Court has received and reviewed the evaluations of Drs. Davis  
and Hiller.

8:30 a.m.

HARDESTY

Petrocelli

DEPT. NO. 9

COURT ORDERED: Defendant found competent to understand the  
nature of the charges against him and to aid and assist his counsel  
in his own defense.

Hearing

T. Prince

09/06/2002

(Clerk)

8:30 a.m.

D. Davidson

Defense counsel was handed a copy of the Information; waived  
formal reading.

Motion to

(Reporter)

Confirm

TRUE NAME: FERRILL JOSEPH VOLPICELLI

Defendant entered a plea of Not Guilty to all charges; waived the  
60-day rule.

09/23/2002

8:30 a.m.

COURT ORDERED: Matter continued for trial by a jury.

Jury Trial

Defendant was remanded to the custody of the Nevada

(2 days)

Department of Corrections.

CR02-0147  
STATE VS FERRILL JOSEPH VOLPICELLI  
District Court  
Washoe County  
DC-09900055303-112  
JOSEPH VOLPICELLI Page 1  
04/19/2002 08:30 AM  
MIN  
MTNBPFC



V2. 41

## CRIMINAL PROGRESS SHEET

INF. 2/6/02

AI. \_\_\_\_\_

2AI. \_\_\_\_\_

2INF. \_\_\_\_\_

CASE NO. CR02-0147DEFT: Volpicelli, Ferrill@67988

LANGUAGE: \_\_\_\_\_

JUDY STATUS: CUSTODY ☒ NIC ☐ BAIL ☐ \$ \_\_\_\_\_ OR ☐ OR ☐ W/COURT SERVICESDATE: 4/19/02 DEPT. NO. 9 REPORTER: D. Davidson CLERK: T. PrinceNAME: Ferrill Joseph Volpicelli60 DAY RULE: YES ☒ NO ☐ DATE: 4/19/02☒ HANDED COPY☒ WAIVED READING☐ REQUESTED TIME TO PLEA☐ REFERRED TO DRUG COURT☐ ACCEPTED TO DRUG COURT☐ WAIVED PSITY ☒ By: \_\_\_\_\_ GUILTY ☐ ALFORD ☐ NC ☐ TO: InformationDATE: 2/13/02 ☒ REQUESTED PSYCH. EVAL - APPTD. DR'S: Davis & HillerREPORT PSYCH. EVAL: DATE: 4/19/02 DEPT. NO. 9 REPORTER: D. Davidson CLERK: T. PrinceCOURT FOUND DEFT: ☒ COMPETENT ☐ INCOMPETENT; DEFT REMANDED

ENTRY OF PLEA: DATE: \_\_\_\_\_ DEPT. NO. \_\_\_\_\_ REPORTER: \_\_\_\_\_ CLERK: \_\_\_\_\_

NOT GUILTY ☐ By: \_\_\_\_\_ GUILTY ☐ ALFORD ☐ NC ☐ TO: \_\_\_\_\_☐ WAIVED PSI P & P Ref: \_\_\_\_\_

CHANGE PLEA: DATE: \_\_\_\_\_ DEPT. NO. \_\_\_\_\_ REPORTER: \_\_\_\_\_ CLERK: \_\_\_\_\_

GUILTY ☐ ALFORD ☐ NC ☐ TO: \_\_\_\_\_☐ WAIVED PSI P & P Ref: \_\_\_\_\_ TRIAL DATE: \_\_\_\_\_ VACATEDCONTINUED TO: 3/15/02 @ 8:30 am FOR: Report of psychiatric EvaluationCONTINUED TO: 9-6-02 @ 8:30 am FOR: Petrocelli HearingCONTINUED TO: 9-6-02 @ 8:30 am FOR: MTCCONTINUED TO: 9-23-02 @ 8:30 am FOR: Jury Trial (2 days)CONTINUED TO: 9-11-02 @ 8:30 AM FOR: Cont'd MTCCONTINUED TO: 2/26/03 @ 8:30 AM FOR: MTCCONTINUED TO: 3/4/03 @ 8:30 AM FOR: Jury Trial (2 days) vacated 2/26/03CONTINUED TO: 3/21/03 @ 8:30 am FOR: MTCCONTINUED TO: 4/9/03 @ 8:30 am FOR: Jury Trial (2 days) (3/21/03 vacated)CONTINUED TO: 6/25/03 @ 8:30 FOR: MTCCONTINUED TO: 7/10/03 @ 8:30 FOR: Jury Trial (1 1/2 day)CONTINUED TO: 4/30/03 @ 8:30 FOR: Motion for A.R. ReleaseCONTINUED TO: 6-18-03 @ 8:30 FOR: Report Psychiatric EvaluationCONTINUED TO: 12-10-03 @ 8:30 FOR: Detentioning - Cont'd

V2. 41

CASE NO. CRO2-0147

JUDGMENT DEFERRED: DATE: \_\_\_\_\_ DEPT. NO. \_\_\_\_\_ REPORTER: \_\_\_\_\_ CLERK: \_\_\_\_\_

NRS 453 [ ] NRS 458 [ ] PROBATION: \_\_\_\_\_ \$25 AAF [ ] \$60 CAF [ ] \$150 DNA [ ]

RESTITUTION: \$ \_\_\_\_\_ ATTY. FEES: \$ \_\_\_\_\_

REVOKE DEFERRED STATUS: DATE: \_\_\_\_\_ DEPT. NO. \_\_\_\_\_ REPORTER: \_\_\_\_\_ CLERK: \_\_\_\_\_

GRANTED [ ] DEFT FORMALLY SENTENCED DENIED [ ] DEFT CONTINUED ON PROBATION

DATE: \_\_\_\_\_ DEPT. NO. \_\_\_\_\_ REPORTER: \_\_\_\_\_ CLERK: \_\_\_\_\_

[ ] 190 DAY REGIMENTAL DISCIPLINE - CONTINUED TO: \_\_\_\_\_ FOR: SENTENCING

SENTENCING: DATE: 12-12-03 DEPT. NO. 9 REPORTER: Davidson CLERK: S. Sattler

DISPOSITION CT I - NSP 12-48 months, CT II - NSP 12-48 months,  
to run concurrently w/ CT I. + \$5,000 fine as  
to each count.

State's ex A admitted

\$25 AAF [✓] \$60 CAF [ ] \$150 DNA [✓] \$ 800 PSYCHO. SEX EVAL [✓] ATTY FEES: \$ 1,000 -

RESTITUTION: \$ \_\_\_\_\_ BAIL EXONERATED: [ ] TIME SERVED: 228 days -

PROBATION REVOKED: [ ] DATE: \_\_\_\_\_ TIME SERVED REVO: \_\_\_\_\_

MOTIONS: 2/13/02 - Deft Not present. Motion for psychiatric evaluation GRANTED.  
Matter continued. (D. Davidson)

9/11/02 - Motion to confirm trial date GRANTED. (D. Davidson)

10/23/02 - Motion to set trial GRANTED. (D. Davidson)

2/26/03 - Motion to confirm trial ~~GRANTED~~ DENIED. (D. Davidson)4-30-03 - Davidson - S. Sattler Motion for OR release into  
Federal Prison - CO, Denied6-12-03 (Davidson) S. Sattler Status Hearing - Heard -  
& continued for report on psychiatric evaluation6/18/03 - Court found Deft competent to aid and assist counsel in his own  
defense. Court further ordered Motion to waived trial by jury DENIED (D. Davidson)

12-5-03 (C. Vohl) S. Sattler - Sentencing - Heard &amp; Continued

CRIMINAL PROGRESS SHEET CONTINUED

CASE NO. CR 02-0147

CONTINUED MOTIONS: States Exhibit "A" marked for  
identification.

DA # 213988

FILED

LOC: KAY

02 APR 29 PM 3: 31

CODE 3839  
 Richard A. Gammick  
 #001510  
 P.O. Box 30083  
 Reno, NV 89520-3083  
 (775) 328-3200  
 Attorney for Plaintiff

ORIGINAL  
 BY Ronald A. Longtin, Jr.  
 DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

Defendant.

REQUEST, AGREEMENT AND ORDER FOR PRE-TRIAL RECIPROCAL DISCOVERY

DEFENDANT'S REQUEST FOR DISCOVERY

Pursuant to NRS 174.235 to 174.295, inclusive, the  
 defendant requests all written or recorded statements or  
 confessions made by the defendant, any written or recorded  
 statements made by a witness or witnesses the State intends to  
 call in its case-in-chief, or any reports of statements or  
 confessions, or copies thereof, results or reports of physical or  
 mental examinations, scientific tests or scientific experiments,  
 or copies thereof, that are within the possession, custody or  
 control of the State, the existence which is known, or with the  
 exercise of due diligence may become known to the prosecuting

1 attorney; and books, papers, documents or tangible objects that  
2 the State intends to introduce in its case-in-chief and which is  
3 in the possession, custody or control of the State, the existence  
4 which is known, or with the exercise of due diligence may become  
5 known to the prosecuting attorney.

6 STATE'S REQUEST FOR DISCOVERY

7 Pursuant to NRS 174.087, 174.089, 174.235 to 174.295,  
8 inclusive, the State requests any written or recorded statements  
9 made by a witness or witnesses the defendant intends to call in  
10 his or her case-in-chief, or copies thereof, results or reports  
11 of physical or mental examinations, scientific tests or  
12 scientific experiments, or copies thereof, that are within the  
13 possession, custody or control of the defendant, the existence  
14 which is known, or with the exercise of due diligence may become  
15 known to the defendant; and books, papers, documents or tangible  
16 objects that the defendant intends to introduce in his or her  
17 case-in-chief and which is in the possession, custody or control  
18 of the defendant, the existence which is known, or with the  
19 exercise of due diligence may become known to the defendant.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

AGREEMENT TO RECIPROCAL DISCOVERY

The parties hereby agree that they will comply with the requirements of NRS 174.087, 174.089, 174.235 to 174.295, inclusive.

RICHARD A. GAMMICK  
District Attorney  
Washoe County, Nevada

By K. L. Erickson April 22, 2002  
Chief Deputy District Attorney Date  
KRISTIN L. ERICKSON

James A. Alian 4-24-02  
Defense Attorney/JACK A. ALIAN Date

☐ Retained ☒ Court Appointed ☐ Public Defender

ORDER

PURSUANT TO NRS 174.087, 174.089, and 174.235 to 174.295 inclusive and good cause appearing therefore,

IT IS HEREBY ORDERED that discovery be provided in accordance with the within requests and agreement.

DATED this 26 day of April, 2002.

Steven P. Elliott  
DISTRICT JUDGE

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

Jack A. Alian, Esq.  
360 W. Liberty Street  
Reno, NV 89501

DATED this 29<sup>th</sup> day of April, 2002.

K. Yarny

FILED  
ORIGINAL

2002 MAY -3 PM 1:51

RONALD A. LONNIN, JR.

BY *[Signature]*  
DEPUTY

CODE 1260  
Richard A. Gammick  
#001510  
P.O. 30083-3083  
Reno, NV. 89520  
(775)328-3200  
Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. <sup>CR02</sup> CR-0147

FERRILL JOSEPH VOLPICELLI (BAC# 60076),

Dept. No. D9

Defendant.

APPLICATION FOR ORDER TO PRODUCE PRISONER

COMES NOW, the State of Nevada, Plaintiff herein, by  
and through RICHARD A. GAMMICK, District Attorney of Washoe  
County by, KRISTIN L. ERICKSON, Deputy District Attorney, and  
alleges as follows:

1. That BRETT ALLEN BOWMAN, (BAC# 64788) is presently  
incarcerated at the Nevada State Prison, Carson City, Nevada.

2. That the above defendant is scheduled for a Jury  
Trial before the Second Judicial District Court on Monday,  
September 16, 200, at 8:30 a.m., and that BRETT ALLEN BOWMAN  
(BAC# 64788) is a necessary witness in this Jury Trial.

///



1 WHEREFORE Applicant prays that an Order be made  
2 pursuant to NRS 174.325 ordering the appearance of the said BRETT  
3 ALLEN BOWMAN (BAC# 64788) before the Second Judicial District  
4 Court, and from time to time thereafter at such times and places  
5 as may be ordered and directed by the Court for such proceedings  
6 as thereafter may be necessary and proper in the premises, and  
7 directing the execution of said Order by the Sheriff of Washoe  
8 County, Nevada.

9 Dated this 3rd day of May, 2002.

11 RICHARD A. GAMMICK  
12 District Attorney  
13 Washoe County, Nevada

14 By Kristin L. Erickson  
15 KRISTIN L. ERICKSON  
16 Deputy District Attorney  
17  
18  
19  
20  
21  
22  
23  
24  
25

26 DA #213980

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

JACK ALIAN, ESQ.  
360 W. LIBERTY STREET  
RENO, NV 89501

ERIC NICKEL, ESQ.  
DEPUTY PUBLIC DEFENDER  
via interoffice mail

DATED this 3<sup>rd</sup> day of May, 2002.

K. M. [Signature]

ORIGINAL

FILED

2002 MAY -3 PM 1:52

RONALD A. MCINTOSH, JR.

BY [Signature]  
DEPUTY

CODE 1260  
 Richard A. Gammick  
 #001510  
 P.O. 30083-3083  
 Reno, NV. 89520  
 (775)328-3200  
 Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL JOSEPH VOLPICELLI, (BAC# 60076)

Dept. No. D9

Defendant.

APPLICATION FOR ORDER TO PRODUCE PRISONER

COMES NOW, the State of Nevada, Plaintiff herein, by  
 and through RICHARD A. GAMMICK, District Attorney of Washoe  
 County by, KRISTIN L. ERICKSON, Deputy District Attorney, and  
 alleges as follows:

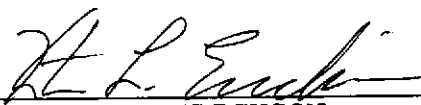
1. That FERRILL JOSEPH VOLPICELLI, (BAC# 60076) is  
 presently incarcerated at the Nevada State Prison, Carson City,  
 Nevada.

2. That the above defendant is scheduled for a Motion  
 to Confirm Jury Trial before the Second Judicial District Court  
 on Friday, September 6, 2002, at 8:30 a.m., and that FERRILL  
 JOSEPH VOLPICELLI (BAC# 60076) is necessary.

1 WHEREFORE Applicant prays that an Order be made  
2 pursuant to NRS 174.325 ordering the appearance of the said  
3 FERRILL JOSEPH VOLPICELLI (BAC# 60076) before the Second Judicial  
4 District Court, and from time to time thereafter at such times  
5 and places as may be ordered and directed by the Court for such  
6 proceedings as thereafter may be necessary and proper in the  
7 premises, and directing the execution of said Order by the  
8 Sheriff of Washoe County, Nevada.

9 Dated this 3<sup>rd</sup> day of April, 2002.

10  
11 RICHARD A. GAMMICK  
12 District Attorney  
13 Washoe County, Nevada

14 By   
15 KRISTIN L. ERICKSON  
16 Deputy District Attorney  
17  
18  
19  
20  
21  
22  
23  
24  
25

26 DA #213988

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

JACK ALIAN, ESQ.  
360 W. LIBERTY STREET  
RENO, NV 89501

DATED this 3rd day of April, 2002.

Kelamy

FILED

02 MAY -7 PM 2:38

RONALD A. LONGTIN, JR.

BY *[Signature]*  
DEPUTY

ORIGINAL

CODE 3340  
 Richard A. Gammick  
 #001510  
 P.O. 30083-3083  
 Reno, NV. 89520  
 (775)328-3200  
 Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL JOSEPH VOLPICELLI, (BAC# 60076)

Dept. No. D9

Defendant.

ORDER TO PRODUCE PRISONER

IT APPEARING to the satisfaction of the above-entitled Court that it is necessary that FERRILL JOSEPH VOLPICELLI, (BAC# 60076) presently incarcerated in the Nevada State Prison, Carson City, Nevada, be brought before the Second Judicial District Court in the above-entitled action,

///

1 NOW, THEREFORE, IT IS HEREBY ORDERED that pursuant to  
2 the provision of NRS 174.325, the Warden of the Nevada State  
3 Prison, Carson City, Nevada, bring the said FERRILL JOSEPH  
4 VOLPICELLI (BAC# 60076) before the Second Judicial District Court  
5 on Friday, September 6, 2002, at the hour of 8:30 a.m., and from  
6 time to time thereafter at such times and places as may be  
7 ordered and directed by the Court for such proceedings as  
8 thereafter may be necessary and proper in the premises.

9 DATED this 3 day of MAY, 2002.

10  
11 James W. Hardesty  
12 DISTRICT JUDGE  
13  
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26

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

Jack Alian, Esq.  
360 W. Liberty Street  
Reno, NV 89501

DATED this 7<sup>th</sup> day of May, 2002.

KYmy



CR02-0147  
STATE VS FERRILL  
District Court  
Washoe County  
NAC  
DC-09000056260-072  
JOSEPH VOLP 8 Pages  
05/14/2002 03:27 PM  
4185  
MTADDER

ORIGINAL

FILED

MAY 14 2002

RONALD A. LONGTIN, JR., CLERK

By: [Signature]  
DEPUTY

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0145  
CR02-0146  
CR02-0147  
CR02-0148

vs.

Dept. No. 9

FERRILL JOSEPH VOLPICELLI,

Defendant.

REPORT ON PSYCHIATRIC EVALUATION

APRIL 19, 2002

RENO, NEVADA

APPEARANCES:

For the Plaintiff:

JANICE A. HUBBARD  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

For the Defendant:

JACK A. ALIAN  
Attorney at Law  
360 W. Liberty Street  
Reno, Nevada 89501

1 RENO, NEVADA, FRIDAY, APRIL 19, 2002, 8:48 A.M.

2 --oOo--

3  
4 THE COURT: State versus Ferrill Volpicelli,  
5 CR02-0145, CR02-0146, CR02-0147 and CR02-0148.

6 This is the time set for determination of  
7 competency with respect to the defendant.

8 Has counsel seen the reports provided by Dr. Davis  
9 as well as --

10 MR. ALIAN: Your Honor, the last --

11 THE COURT: As well as Dr. --

12 MS. HUBBARD: Robert Hiller.

13 THE COURT: Yes.

14 MR. ALIAN: Your Honor, Dr. Hiller's report came  
15 in our office about seven o'clock last night. If I may  
16 approach, I do have other copies.

17 THE COURT: Well, I had it in the other copy.  
18 Okay.

19 MR. ALIAN: But the results on both seem to  
20 suggest that my client is competent to go forward. Based  
21 upon that, we are prepared today to go forward and to enter  
22 not guilty pleas on each of the cases.

23 THE COURT: All right. Ms. Hubbard, anything on  
24 competency you wish to add?

1 MS. HUBBARD: Your Honor, we would agree with that  
2 evaluation, he is competent.

3 THE COURT: All right. The Court finds  
4 Mr. Volpicelli to be competent to understand the nature of  
5 the charges and to assist his counsel and therefore his  
6 competency is determined or established for the purposes of  
7 proceeding forward.

8 I have copies of Informations in each case,  
9 Mr. Alian, to provide to you.

10 Is your client's name correctly spelled on line 12  
11 of each of the Informations; and do you wish to have them  
12 read, sir?

13 MR. ALIAN: Thank you, Your Honor.

14 Your Honor, I would indicate to the Court with  
15 respect to 02-0145 my client's name is correctly spelled.  
16 We're familiar with the contents of the Information, and we  
17 waive its reading.

18 Likewise, with respect to 02-0146, the same with  
19 02-0147 and again with 02-0148. We waive the reading of  
20 each and every -- each of those Informations.

21 We would also waive the right to a trial within 60  
22 days and are prepared to enter not guilty pleas to the  
23 charges.

24 In addition, Your Honor, in speaking with the

1 district attorney, too, we respectfully ask the Court to  
2 consider setting trial dates beginning Monday, September  
3 30th, if that would be appropriate with the Court.

4 THE COURT: Mr. Volpicelli, what is your plea in  
5 case 02-0145?

6 THE DEFENDANT: Not guilty.

7 THE COURT: And in case 02-0146?

8 THE DEFENDANT: Not guilty.

9 THE COURT: And in case 02-0147?

10 THE DEFENDANT: Not guilty.

11 THE COURT: And in case 02-0148?

12 THE DEFENDANT: Not guilty.

13 THE COURT: You have a right to a jury trial to be  
14 conducted within 60 days of today in each of these cases.  
15 Do you wish to exercise that right, sir?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Do you waive that right?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. How long do counsel  
20 believe each of these cases will take to try?

21 MS. HUBBARD: Your Honor, I would expect two days  
22 for each case, each file.

23 MR. ALIAN: That is correct, Your Honor.

24 THE COURT: Are you able to begin September 16th?

1 MR. ALIAN: Your Honor, I show a trial in  
2 Department 4 beginning on the 16th and another trial on  
3 Monday, the 23rd, in Department 4 as well. If those two go  
4 off, most certainly.

5 Your Honor, I also note, though, I also have a  
6 trial scheduled for September 18th on Mr. Haggerty, and I  
7 believe it might be in this court.

8 THE COURT: It is. You think that will go still?

9 MR. ALIAN: Quite frankly, no.

10 THE COURT: That's what I was thinking.

11 All right. Is the State going to seek to try any  
12 of these cases together?

13 MR. ALIAN: Your Honor, I don't believe so at this  
14 time, but I wanted also to call the Court's attention to  
15 there are some negotiations which may come to fruition;  
16 however, at this point we are asking to set them all for  
17 trial. Just so the Court knows my client has a federal  
18 problem, as well, and he's also in state prison.

19 THE COURT: All right. Then I'm going to set  
20 trial dates for September 16th at 8:30.

21 MR. ALIAN: Thank you, Your Honor.

22 THE COURT: Beginning then in case 0145. In  
23 case 0146 I'll set that for ten o'clock on September 18th.  
24 And in case 0147 I'll set that for September the 23rd. And

1 in case 0148 I'll set that for ten o'clock on September  
2 25th.

3 MR. ALIAN: Thank you, Your Honor.

4 THE COURT: Motions to confirm with respect to all  
5 four cases will be scheduled for September -- Friday,  
6 September the 6th at 8:30.

7 Do you anticipate any pretrial motions, counsel?

8 MR. ALIAN: Your Honor, we may, but we won't know  
9 yet until we've gone through each file.

10 THE COURT: Is there a reciprocal discovery  
11 agreement?

12 MR. ALIAN: Yes.

13 MS. HUBBARD: Yes, Your Honor.

14 THE COURT: I haven't seen that presented.

15 MR. ALIAN: Your Honor, we will enter into that.

16 THE COURT: All right. Anything further?

17 MS. HUBBARD: Your Honor, we would expect a  
18 Petrocelli hearing, so I don't know if the Court wants to  
19 set that.

20 THE COURT: Why don't we do this. How long do you  
21 think the Petrocelli hearing will take?

22 MS. HUBBARD: No more than two hours.

23 THE COURT: Let's set that at the time of the  
24 motion to confirm on September 6th. Okay?

1 MR. ALIAN: Okay. Thank you, Your Honor.  
2 MS. HUBBARD: Thank you, Your Honor.  
3 (Proceedings concluded.)

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1 STATE OF NEVADA )  
2 COUNTY OF WASHOE ) ss.

3 I, DONNA DAVIDSON, Official Reporter of the Second  
4 Judicial District Court of the State of Nevada, in and for  
5 the County of Washoe, do hereby certify:

6 That as such reporter, I was present in Department  
7 No. 9 of the above court on said date, time and hour, and I  
8 then and there took verbatim stenotype notes of the  
9 proceedings had and testimony given therein.

10 That the foregoing transcript is a full, true and  
11 correct transcript of my said stenotype notes, so taken as  
12 aforesaid.

13 That the foregoing transcript was taken down under  
14 my direction and control, and to the best of my knowledge,  
15 skill and ability.

16  
17 DATED: At Reno, Nevada, this 24th day of April,  
18 2002.

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DONNA DAVIDSON, CCR #318



FILED

02 AUG -2 PM 1:45

ORIGINAL  
BY RONALD A. LONGTIN, JR.  
DEPUTY

CODE 2610  
 Richard A. Gammick  
 #001510  
 P.O. Box 30083  
 Reno, NV 89520-3083  
 (775) 328-3200  
 Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

Defendant.

NOTICE OF INTENT TO SEEK HABITUAL CRIMINALITY

COMES NOW, the State of Nevada, by and through RICHARD  
 A. GAMMICK, District Attorney of Washoe County, and KRISTIN L.  
 ERICKSON, Chief Deputy District Attorney, and hereby files this

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1 Notice of the State's intention to have the defendant classified  
2 as an Habitual Criminal in the above-captioned case pursuant to  
3 NRS 207.010.

4 Dated this 2nd day of August, 2002.

5 RICHARD A. GAMMICK  
6 District Attorney  
7 Washoe County, Nevada

8 By K. L. Erickson  
9 KRISTIN L. ERICKSON  
10 4258  
11 Chief Deputy District Attorney  
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26 08010145

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

Jack A. Alian, Esq.  
360 West Liberty Street  
Reno, NV 89501

DATED this 2nd day of August, 2002.

K. Young

FILED

02 AUG 30 PM 3:30

RONALD A. LONGTIN, JR.

BY                       
DEPUTY

CODE 2565  
 Richard A. Gammick  
 #001510  
 P.O. 30083  
 Reno, NV. 89520  
 (775)328-3200  
 Attorney for Plaintiff

ORIGINAL

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

Defendant.

NOTICE OF EXPERT WITNESSES PURSUANT TO NRS 174.234

COMES NOW, the State of Nevada, by and through RICHARD  
 A. GAMMICK, District Attorney for the County of Washoe, State of  
 Nevada, and SEAN B. SULLIVAN, Deputy District Attorney, and  
 hereby gives notice of the name of the expert witnesses intended  
 to be called during the State's case-in-chief.

Susan Harmon  
 Washoe County Crime Lab  
 Criminalist  
 911 Parr Boulevard  
 Reno, NV 89512

The State intends to call SUSAN HARMON as an expert  
 witness. MS. HARMON will testify that she is employed as a

1 Forensic Technician and Criminalist in the Forensic Science  
2 Division of the Washoe County Sheriff's Office Crime Laboratory,  
3 that her education, training and experience have qualified her to  
4 perform analysis to detect the presence for biological fluids and  
5 trace evidence. The State anticipates that MS. HARMON will  
6 testify consistent with her attached reports concerning this  
7 case. A copy of her curriculum vitae is attached.

8  
9 Jeffrey M. Rolands  
10 Washoe County Crime Lab  
11 Criminalist  
12 911 Parr Boulevard  
13 Reno, NV 89512

14 The State intends to call JEFFREY M. ROLANDS as an  
15 expert witness. MR. ROLANDS will testify that he is employed as  
16 a Forensic Technician and Criminalist in the Forensic Science  
17 Division of the Washoe County Sheriff's Office Crime Laboratory,  
18 that his education, training and experience have qualified him to  
19 conduct analysis so as to detect the presence of DNA and make  
20 comparison DNA samples. The State anticipates that MR. ROLANDS  
21 will testify consistent with his attached reports concerning this  
22 case. A copy of his curriculum vitae is attached.

23 Shane D. Billau  
24 Washoe County Crime Lab  
25 Forensic Technician  
26 911 Parr Boulevard  
Reno, NV 89512

The State intends to call SHANE D. BILLAU as an expert  
witness. MR. BILLAU will testify that he is employed as a

1 Forensic Technician in the Forensic Science Division of the  
2 Washoe County Sheriff's Office Crime Laboratory, that his  
3 education, training and experience have qualified him for the  
4 photographing, collection, and preservation of all types of  
5 physical evidence found at a crime scene. The State anticipates  
6 that MR. BILLAU will testify consistent with his attached reports  
7 concerning this case. A copy of his curriculum vitae is  
8 attached.

9  
10 Toni Leal-Olsen  
11 Washoe County Crime Lab  
12 Forensic Technician  
13 911 Parr Boulevard  
14 Reno, NV 89512

15 The State intends to call TONI LEAL-OLSEN as an expert  
16 witness. MS. LEAL-OLSEN will testify that she is employed as a  
17 Forensic Technician in the Forensic Science Division of the  
18 Washoe County Sheriff's Office Crime Laboratory, that her  
19 education, training and experience have qualified her for the  
20 photographing, collection, and preservation of all types of  
21 physical evidence found at a crime scene. The State anticipates

22 ///

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1 that MS. LEAL-OLSEN will testify consistent with her attached  
2 reports concerning this case. A copy of her curriculum vitae is  
3 attached.

4  
5 Dated this 30<sup>th</sup> day of August, 2002.

6  
7 RICHARD A. GAMMICK  
8 District Attorney  
9 Washoe County, Nevada

10  
11 By 

12 SEAN B. SULLIVAN  
13 7534  
14 Deputy District Attorney  
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08301471

WASHOE COUNTY SHERIFF'S OFFICE  
DENNIS BALAAM, SHERIFF  
FORENSIC SCIENCE DIVISION  
911 PARR BLVD.  
RENO, NV 89512-1000

11/20/01

LABORATORY NUMBER: L7970-01-1  
AGENCY: RENO P. D.  
AGENCY CASE #: RP0100213180  
SUSPECT: VOLPICELLI, FERRILL  
VICTIM: STATE OF NEVADA  
PERSON REQUESTING: PHAY / Thomas, Reed  
DATE OF SUBMISSION: 10/25/01  
OFFENSE: SEX OFFENSE / NON-ASSAULT

Received from WCSO EVIDENCE SECTION, on 10/29/01

The submitted items were identified as:

CONTROL #                      DESCRIPTION:

P36655:                      Tissue

RESULTS OF EXAMINATION:

The tissue was examined for the presence of DNA with none detected.

The above sample was subjected to PCR amplification at the following STR genetic loci: D3S1358, vWA, FGA, Amelogenin, D8S1179, D21S11, D18S51, D5S818, D13S317, D7S820, D16S539, TH01, TPOX and CSF1PO.

The above evidence was returned to the Washoe County Sheriff's Office Evidence Section.

If you have any questions regarding this report, please feel free to contact this office at (775) 328-2800.

  
JEFFREY M. ROLANDS, CRIMINALIST



WASHOE COUNTY SHERIFF'S OFFICE  
DENNIS BALAAM, SHERIFF  
FORENSIC SCIENCE DIVISION  
911 PARR BLVD.  
RENO, NV 89512-1000

12/05/01

LABORATORY NUMBER: L7970-01-2  
AGENCY: RENO P.D.  
AGENCY CASE #: RP0100213180  
SUSPECT: VOLPICELLI, FERRILL  
VICTIM: STATE OF NEVADA  
PERSON REQUESTING: DET. BROWN  
DATE OF SUBMISSION: 10/29/01  
OFFENSE: SEX OFFENSE / NON - ASSAULT

SCENE REPORT

LOCATION OF SCENE: 911 Parr Boulevard  
F.I.S. Garage Bay #1  
Reno, Nevada

DATE: 10/25/01  
TIME NOTIFIED: 1230 HOURS  
TIME ARRIVED: 1300 HOURS  
TIME COMPLETED: 1455 HOURS

CASE SUMMARY

At approximately 1300 hours, Investigator T. Leal-Olsen and I arrived at the above listed location where we were met and briefed by Detective P.J. Brown of the Reno Police Department regarding the Search Warrant which needed to be performed on a blue "Ford Explorer," California License plate #4TCL040 (VIN #1FMCU24X8VUA65078).

The Alternate Light Source (ALS) was used to detect the possible presence of semen on the interior of the vehicle with the following results:

The roof above the rear passengers' area	Fluoresced
The roof area above the front passenger seat	Fluoresced
The visor on the passenger side	Fluoresced
The white short sleeved T-shirt from the rear passengers' area	Fluoresced
One of the floor mats that was located in the rear cargo area	Fluoresced
The tan short sleeved shirt from the rear passengers' area	Negative
The pillow that was located in the rear passengers' area	Negative
The driver's area	Negative
The rear cargo floor and roof	Negative
The rear passenger seat	Negative
The rear passenger floor area	Negative
The front passenger floor area	Negative
The front passenger seat	Negative

Criminalist S. Harmon assisted in the examination of the vehicle and performed presumptive tests for semen on the stains that were fluorescing.

The results of the presumptive tests are as follows:

Stain that was located on the roof above right rear passenger	Negative
Stain that was located on the roof above front passenger area	Negative
Stain that was located on the passenger visor	Negative
Stain that was located on a white short sleeved T-shirt	Negative
Stain that was located on the floor mat in rear cargo area	Negative

No evidence was collected by me at this time.

Shane D. Billau #2516

Shane D. Billau  
Forensic Technician  
Forensic Investigation Section

km

Toni Leal-Olsen

Toni Leal-Olsen  
Forensic Investigator  
Forensic Investigation Section



WASHOE COUNTY SHERIFF'S OFFICE  
DENNIS BALAAM, SHERIFF  
FORENSIC SCIENCE DIVISION  
911 PARR BLVD.  
RENO, NV 89512-1000

10/29/01

LABORATORY NUMBER: L7970-01-0  
AGENCY: RENO P.D.  
AGENCY CASE #: RP0100213180  
SUSPECT: VOLPICELLI, FERRILL  
VICTIM: STATE OF NEVADA  
PERSON REQUESTING: PHAY  
DATE OF SUBMISSION: 10/12/01  
OFFENSE: SEX OFFENSE / NON - ASSAULT

Received from WCSO Evidence Section, on 10/22/01

The submitted items were identified as:

<u>EXHIBIT</u>	<u>DESCRIPTION:</u>
A87520	Seven pieces of three-layered white tissue

RESULTS OF EXAMINATION:

Positive results for the presumptive presence of semen were obtained from a large yellowish stain in the middle of the tissue. Microscopic examination of the stain was negative for the presence of spermatozoa. A portion of the stain was removed and will be retained in WCSO Evidence under control #P36655.

The item in control #P36655 was referred to the DNA section for further examination.

The above listed evidence was returned to the Washoe County Sheriff's Office Evidence Section.

If you have any questions regarding this report, please feel free to contact this office at (775) 328-2800.

  
SUZANNE HARMON, CRIMINALIST

I hereby certify that this document is a true  
copy of the original on file at Washoe County  
Sheriff's Office, Criminalistics Laboratory.

Date: 11-20-01 By: Lathie Merola

WASHOE COUNTY SHERIFF'S OFFICE  
DENNIS BALAAM, SHERIFF  
FORENSIC SCIENCE DIVISION  
911 PARR BLVD.  
RENO, NV 89512-1000

10/29/01

LABORATORY NUMBER: L7970-01-0 *BY*  
AGENCY: RENO P.D.  
AGENCY CASE #: RP0100213180  
SUSPECT: VOLPICELLI, FERRILL  
VICTIM: STATE OF NEVADA  
PERSON REQUESTING: PHAY  
DATE OF SUBMISSION: 10/12/01  
OFFENSE: SEX OFFENSE / NON - ASSAULT

Received from WCSO Evidence Section, on 10/22/01

The submitted items were identified as:

<u>EXHIBIT</u>	<u>DESCRIPTION:</u>
A87520	Seven pieces of three-layered white tissue

RESULTS OF EXAMINATION:

Positive results for the presumptive presence of semen were obtained from a large yellowish stain in the middle of the tissue. Microscopic examination of the stain was negative for the presence of spermatozoa. A portion of the stain was removed and will be retained in WCSO Evidence under control #P36655.

The item in control #P36655 was referred to the DNA section for further examination.

The above listed evidence was returned to the Washoe County Sheriff's Office Evidence Section.

If you have any questions regarding this report, please feel free to contact this office at (775) 328-2800.

*Suzanne Harmon*  
SUZANNE HARMON, CRIMINALIST

WASHOE COUNTY SHERIFF'S OFFICE  
DENNIS BALAAM, SHERIFF  
FORENSIC SCIENCE DIVISION  
911 PARR BLVD.  
RENO, NV 89512-1000

07/26/02

LABORATORY NUMBER: L7970-01-3  
AGENCY: RENO P.D.  
AGENCY CASE #: RP0100213180  
SUSPECT: VOLPICELLI, FERRILL  
VICTIM: STATE OF NEVADA  
PERSON REQUESTING: PHAY/ERICKSEN-DDA  
DATE OF SUBMISSION: 06/24/02  
OFFENSE: SEX OFFENSE / NON - ASSAUL

Received from WCSO Evidence Section, on 07/25/02

The submitted items was identified as:

<u>EXHIBIT</u>	<u>DESCRIPTION:</u>
P36655	A1 tissue from item A87520

RESULTS OF EXAMINATION:

Seminal fluid was identified in the stain on the tissue.

The above listed evidence was returned to the Washoe County Sheriff's Office Evidence Section.

If you have any questions regarding this report, please feel free to contact this office at (775) 328-2800.

Suzanne Harmon  
SUZANNE HARMON, CRIMINALIST

V2. 78

Curriculum Vitae

SUZANNE HARMON

**EDUCATION**

B.S. Medical Technology, 1980  
University of Nevada, Reno

**PROFESSIONAL EXPERIENCE**

- 3/90-present: Criminalist, Washoe County Sheriff's Department, Forensic Science Division, Reno, NV. Current duties include examining evidence for biological fluids and trace evidence, as well as identifying the fluids. Additional duties include calibration and maintenance of evidentiary and preliminary breath testing devices used in Northern Nevada; training and certification of officers in the use of such instruments; and providing expert witness testimony in court as one of the State's experts on breath testing. Prior duties included detection and quantification of biological specimens for drugs and poisons, including ethanol and common drugs of abuse.
- 7/86 - 3/90: Medical Technologist, Immunohematology Department Head, Carson Tahoe Hospital, Carson City, NV. Responsible for the technical operations of the Transfusion and Serology departments, including consulting with attending physicians and maintaining current procedure manuals. Performed preventative maintenance and repair on various laboratory equipment.
- 1/85 - 7/86: Medical Technologist, Clinical Supervisor, Sierra Nevada Laboratories, Inc., Carson City, NV. Supervised and worked in all technical areas of this out-patient laboratory. Maintained procedure manuals for each area, participated in proficiency testing, reviewed all quality control, and performed all equipment maintenance and repair.
- 7/80 - 1/85: Medical Technologist, Churchill Regional Medical Center, Fallon, NV. Worked in all departments of the laboratory. Shared night call which entailed having sole responsibility for all work in any sort of emergency situation. Represented the laboratory on the Quality Assurance and Safety Committee, and also held a position on the Fire Subcommittee. Solely wrote and implemented the entire fire plan for the hospital.
- 3/81 - 3/83: Laboratory Technologist, Kappes, Cassiday, and Associates, Sparks, NV. Performed metallurgical analysis of mineral samples for precious metal content. Worked on new metallurgical process pertaining to cyanide leaching of gold and silver ores. Assisted in research projects involving the recovery of gold, silver, and mercury using activated carbon. (Worked concurrently at Churchill Regional Medical Center.)
- 9/78 - 10/79: Laboratory Assistant, Washoe Medical Center, Reno, NV. Worked as the only phlebotomist and sample handler on the graveyard shift while attending my senior year of college. Obtained approximately 1000 samples for the purpose of a legal blood alcohol, and also assisted in collecting numerous samples for suspected rape cases. Occasionally testified in court regarding the samples.
- 12/75 - 9/78: Laboratory Assistant, Sierra Nevada Laboratories, Inc., St. Mary's Hospital Laboratory, Reno, NV. Worked as a phlebotomist and sample handler.

V2. 78

V2. 79

**CONFERENCES/WORKSHOPS ATTENDED**

April 2002: International Association for Chemical Testing, Austin, TX

May 2001: California Criminalistics Institute: Microscopy of Rape Evidence, Sacramento, CA

April 2001: International Association for Chemical Testing, Williamsburg, VA

April 2000: International Association for Chemical Testing, Halifax, Nova Scotia, Canada

October 1999: Nevada DUI Conference, Mesquite, NV

April 1999: International Association for Chemical Testing, Wilmington, NC

December 1998: National Judicial College - Advanced Faculty Development, Reno, NV

September 1998: Nevada DUI Conference at the National Judicial College, Reno, NV

April 1998: International Association for Chemical Testing, Las Vegas, NV

July 1997: Nevada DUI Conference at the University of Nevada, Las Vegas, NV

May 1997: National Judicial College - Faculty Development Course, Reno, NV

May 1997: International Association for Chemical Testing, Missoula, MT

October 1996: Nevada DUI Conference at the National Judicial College, Reno, NV

August 1996: Intoxilyzer 5000 Users Group Conference, Reno, NV. Served as the conference host.

April 1996: International Association for Chemical Testing, Chicago, IL

November 1995: Intoxilyzer S-D2 Operation, Repair and Maintenance Factory Class, Las Vegas, NV

April 1995: International Association for Chemical Testing, Milwaukee, WI

October 1994: Intoxilyzer 5000 Operation, Repair and Maintenance Factory Class, Owensboro, KY

August 1993: Intoxilyzer 5000 Users Group Conference, Missoula, MT

March 1993: International Association for Chemical Testing, Louisville, KY

October 1992: Forensic Alcohol Analysis and Toxicology, Huntington Beach, CA

August 1992: Intoxilyzer 5000 Users Group Conference, Dallas, TX

March 1992: International Association for Chemical Testing, Reno, NV. Served as the conference host.

October 1991: Northwest Association of Forensic Scientists, Coeur D'Alene, ID

April 1991: International Association for Chemical Testing, Little Rock, AR

August 1990: Intoxilyzer 5000 Users Group Conference, St. Paul, MN

V2. 79

V2. 80

**CONFERENCE PRESENTATIONS**

- April 2001: Presenter at the International Association for Chemical Testing, Williamsburg, VA
- April 2000: Presenter at the International Association for Chemical Testing, Halifax, Nova Scotia
- October 1999: Presenter at the Nevada DUI Conference, Mesquite, NV
- September 1998: Presenter at the Nevada DUI Conference at the National Judicial College, Reno, NV
- April 1998: Moderator for "Zero Tolerance Panel" at the International Association for Chemical Testing Conference, Las Vegas, NV
- July 1997: Presenter at the Nevada DUI Conference at the University of Nevada, Las Vegas, NV
- October 1996: Presenter at the Nevada DUI Conference at the National Judicial College, Reno, NV
- August 1994: Presenter at the Reno Police Department and Reno City Attorney's Office DUI Seminar, Reno, NV.
- 3/93 & 5/93: Presenter at the Elko County District Attorney's Office DUI Seminar, Elko, NV.

**FACULTY EXPERIENCE**

- March 1994: Faculty in the "Improving DUI Adjudication in Traffic Safety Cases" course at the National Judicial College, Reno, NV.
- August 1993: Instructor for the Intoxilyzer 5000 Users Group Conference, Missoula, MT.
- 6/93 - present: Faculty in the "Drinking Driver Cases", at the National Judicial College, Reno, NV.
- 2/93 - present: Faculty in the "PBT/Evidentiary Breath Alcohol Testing" course at the Nevada Law Enforcement Academy, Carson City, NV.
- January 1993: Instructor for Pennsylvania State Police Breath Testing Maintenance Officer Training, Greensburg, PA.
- August 1992: Faculty in the "PBT/Evidentiary Breath Alcohol Testing" course at the Nevada P.O.S.T. Academy, Carson City, NV.
- 12/91 - 8/92: Faculty in the "PBT/Evidentiary Breath Alcohol Testing" course at the Nevada Highway Patrol Academy, Carson City, NV.
- 6/91 - present: Faculty in the "Traffic Court Proceedings" course at the National Judicial College, Reno, NV.
- 5/91 - present: Faculty in the "PBT/Evidentiary Breath Alcohol Testing" course at the P.O.S.T. Category One Recruit School at Truckee Meadows Community College, Reno, NV.
- 5/90 - present: Instructor in Breath-testing Device Operator Certification and Recertification Courses for law enforcement officers throughout Nevada.

V2. 80



V2. 81

**PROFESSIONAL ORGANIZATIONS**

International Association for Chemical Testing, Executive Board (1996 - 1998) and (1998 - 2000), Treasurer (1999 - 2000), Newsletter Editor (2000 - present), Publication Committee Chair (2001 - present)

American Academy of Forensic Sciences, Provisional Member

California Association of Criminalists, Applicant

**PROFESSIONAL CERTIFICATIONS/LICENSES**

Forensic Analyst of Alcohol #FN007, State of Nevada - Certified 05-11-90; Recertified 05-07-92, 05-04-94, 05-03-96, 05-03-98, 05-03-00, and 05-03-02.

Clinical Laboratory Technologist (old #001999) (new #160TCL-1), State of Nevada - Issued 1981; Renewed annually (discontinued 1999)

Medical Technologist, American Society of Clinical Pathologists, Board of Registry - Issued 1980

**APPOINTMENTS**

Nevada DUI Deskbook Advisory Committee by the National Judicial College

Nevada DUI Conference Advisory Committee by the National Judicial College

Executive Board member of the International Association for Chemical Testing, 1996-1998 and 1998-2000

Treasurer, International Association for Chemical Testing, 1999-2000

Consultant to the Committee on Testing for Intoxication

**EXPERT WITNESS TESTIMONY**

Have provided expert witness testimony in over 280 DUI trials in 41 different courts including Federal Court, 11 District Courts, 19 Justice Courts, 10 Municipal Courts, and Department of Motor Vehicles Hearings.

V2. 81

V2. 82

## Jeffrey M. Rolands

### Education

May 1996

Michigan State University, East Lansing, Michigan  
Bachelor of Science in Medical Technology

### Work Experience

2001-Present

Washoe County Sheriff's Office, Forensic Science Division

#### *DNA Criminalist*

- Perform and interpret DNA analysis by PCR using STR DNA typing including: AmpF/STR Profiler Plus™ and AmpF/STR COfiler™ using the ABI Prism 310 Genetic Analyzer.

1996-2001

Detroit Police Department Crime Laboratory, Serology Unit

#### *Forensic Serologist*

- Court qualified expert witness in forensic serology and DNA analysis.
- Duties include: DNA and serological casework analysis, participate in validation studies and other research, assist with intern training.
- Perform and interpret DNA analysis by PCR using: PM/DQA1, D1S80, and STR DNA typing, including: AmpF/STR Blue, Green II, and Powerplex 1.1™, 2.1™ using the Hitachi FMBIO, currently being trained to use Capillary Electrophoresis Unit (310) and Powerplex 16™.
- Major participant in FBI STR Working Group Project.
- Initial work in lab as an intern involved data basing.
- Perform Gunshot Residue Test using a Scanning Electron Microscope.

1996-1997

Oakland County Sheriff Department Crime Laboratory

#### *Forensic Technician Intern*

- Classified, developed, and documented fingerprints to be entered into A.F.I.S.
- Techniques used included: Alternate light source fluorescence, Cyanoacrylate fuming, Ninhydrin dye stain, and Rhodamine 6G dye stain.
- Performed Duquenois-Levine spot test. Used Gas Chromatography/Mass Spectroscopy and Microscopy to identify illicit drugs.

1995-1996

Independent Study Under Dr. John Gerlach

#### *Michigan State University*

- DNA analysis, Dr. John Gerlach.
- Deer and elk DNA fingerprinting, Dr. Paul Coussens.

Meet the DNA advisory Board Quality Assurance Standards for Forensic DNA Testing Laboratories, Section 5.3 Examiner/Analyst requirements through the following: Bachelors of Science Degree in Medical Technology, Four years forensic DNA laboratory experience, Basic Biochemistry BCH 401, 4 credits (Biochemistry/Molecular Biology), General Biology BS 212, 4 credits (Genetics), Statistical Methods STT 200, 3 credits (Statistics), Statistics and Population Genetics for Forensic DNA Analysis (Statistics).

### Additional Training

1999-2001

Detroit Police Department Reserve Officer

2000 October

11<sup>th</sup> International Symposium On Human Identification - Promega Corp., Biloxi, MS

2000 March

MegaPlex STR Technology Workshop - Promega Corp., Hilton Head, SC

2000 May

Summer Institute In Statistical Genetics, N. C. State University

1999 June

DNA Statistics Workshop, Michigan State Police

1999 June

Cambridge Healthtech Institute DNA Forensics Conference

1998 October

MAFS Annual Meeting

### Affiliations

American Academy of Forensic Sciences  
Midwestern Association of Forensic Scientists

V2. 82

V2. 83

Publications, Abstracts and Presentations

Greenspoon, S., Lytle, P. J., Turek, S., Rolands, J., Scarpetta, M. A., Carr, C. D. VALIDATION OF THE POWERPLEX 1.1™ LOCI FOR USE HUMAN IDENTIFICATION. J. of Forensic Sci. (5/2000).

Greenspoon, S., Scarpetta, M., Rolands, J., Turek, S., Lytle, P., Drayton, M., Carr, C. VALIDATION OF THE POWERPLEX 1.1™ LOCI FOR USE IN FORENSIC CASEWORK. Presented at the proceedings from the 9th (ninth) International Symposium on Human Identification; Lake Buena Vista, FL. (Promega 1998) and the 27th (twenty-seventh) Annual MAFS meeting; Ann Arbor, MI (1998).

Dammug, H., Rolands, J., Steiner, W., Reed, Sgt. D., Bryant, P.O. M., Pauch, P.O. D., Hartzell, Sgt. P., Jonesku, M., Sims, Inv. A., LeValley, P.O. S., Turek, S., PRELIMINARY STUDY ON SOURCES OF GSR CONTAMINATION USING THE SEM. Poster presentation at the 27th (twenty-seventh) Annual MAFS Meeting; Ann Arbor, MI (1998).

V2. 83

V2. 84

**Shane D. Billau**  
**Forensic Technician**  
**Forensic Investigation Section**  
**Washoe County Sheriff's Office**

**Personal Information:**

**Born:** July 4, 1976  
**Place:** Glendale, CA  
**Single**  
**U.S. Citizen**  
**Excellent Health**

**Education:**

**Summer/Fall 2001**

**Federal Bureau of Investigation**  
**Basic Fingerprint Classification**  
**32 Hours**

**California Homicide Investigators Annual Seminar**  
**Reno, NV**  
**24 Hours**

**Clandestine Laboratory Safety Certification**  
**Reno, NV**  
**24 Hours**

**Volunteer For the Washoe County**  
**Sheriff's Office Forensic Science Division**  
**6 weeks @ 15 hrs. Per wk. 90 hrs. Total**

**Spring/Summer 2000**

**Volunteer For the Washoe County**  
**Sheriff's Office Forensic Science Division**  
**35 weeks @ 15 hrs. Per wk. 525 hrs. Total**

**Graduated From Eastern Kentucky University**  
**Bachelor of Science Degree in**  
**Police Administration**

**May 1999**

**Evidence Collection and Preservation**  
**Sheriff's Office Reno, NV**  
**8 Hours**

**Volunteer For the Washoe County**  
**Sheriff's Office Forensic Science Division**  
**10 weeks @ 15 hrs. Per wk. 150 hrs. Total**

V2. 84

V2. 85

Summer 1998

Volunteer For the Washoe County  
Sheriff's Office Forensic Science Division  
14 weeks @ 15 hrs. Per wk. 210 hrs. Total

Summer 1997

Volunteer For the Washoe County  
Sheriff's Office Forensic Science Division  
14 weeks @ 15 hrs. Per wk. 210 hrs. Total

Graduated from Sacramento City College  
Associate in Arts Degree  
Studied Criminal Justice

Spring 1997

Qualified for Presidents Honors for Outstanding  
Scholastic Performance at Sacramento City  
College

Summer 1996

Intern with Washoe County Sheriff's Office  
Forensic Science Division  
14 weeks @ 15 hrs. Per wk. 210 hrs. Total

Basic Crime Scene Investigation Course  
40 Hours

Advanced Crime Scene Investigation Course  
40 Hours

Spring 1996

Qualified for Presidents Honors for Outstanding  
Scholastic Performance at Sacramento City  
College

Fall 1995

Qualified for Presidents Honors for Outstanding  
Scholastic Performance at Sacramento City  
College

Experience:

February 2001 to Present  
Washoe County Sheriff's Office  
911 Parr Blvd.  
Reno, NV

V2. 85

V2. 86

**Position: Forensic Technician**

Responsible for all the photographing, collection and preservation of all types of physical evidence found at crime scenes; the comparison of developed latent prints and inked prints to known subjects; processing both color and black & white films and prints; various techniques employed with Laser and chemicals on pieces of evidence for latent print examination; constructing court exhibits and testify in court and all other related assigned duties.

**May 1996 to February 2000. Summer/X-mas only**

Volunteered for the Washoe County Sheriff's Office Forensic Science Division in which my duties were to help firearms and toolmarks examiner Kevin Lattyak; I learned to use IBIS (International Bullet Identification System) and Drugfire; I have entered over 100 cases on both these systems. During my internship I also helped the Investigators develop prints, mix chemicals, attend autopsies, take photographs, and process the photographs.

**Organizations:**

Member of the California Homicide Investigators Association

V2. 86

V2. 87

Toni Leal-Olsen  
911 Parr Boulevard  
Reno, Nevada 89512  
(775) 328-2823

Date of Birth: 12-31-69  
Marital Status: Married  
HT: 5' 8" WT: 150 lbs  
Health: Good

### Resume

#### Experience:

##### January 1996 - present

Washoe County Sheriff's Office, Reno, Nevada.  
Forensic Investigator, Forensic Science Division.

Responsible for crime scene investigation, collection and preservation of all types of physical evidence; photographing crime scenes in color; processing and developing of crime scene photography; processing evidence for trace evidence and latent fingerprints with both powder and chemicals; photographing latent fingerprints 1-to-1; comparison of latent prints; and testifying in Nevada Judicial Courts and others as required.

##### Sept. '94 - Jan. '96

Washoe County Health Department, Reno, Nevada.  
Clerk II Bilingual, WIC Program.

Responsibilities: Assist Spanish speaking clients  
Basic clerical duties  
Off site clinic setup

##### June '92 - Sept. '93:

##### March '89 - Sept. '89:

Smith's Food and Drug Center, Reno, Nevada.  
Photo Lab Manager.

Responsibilities: Inventory management  
Maintaining health standards  
Maintaining lab equipment  
Tracking profit percentage  
Scheduling for employees

V2. 87

V2. 88

Toni Leal-Olsen Resume  
Page 2

Sept. '93 - Sept. '94:

Oct '89 - June '92:

Oct. '88 - March '89:

Smith's food and Drug Center, Reno / Sparks, Nevada.  
Photo Lab Technician.

Responsibilities: Assist customers  
Processing and printing film  
Lab equipment maintenance

Civilian Education:

Bishop Manogue High School Graduate (1987)

Attending the University of Nevada, Reno.

Professional Education:

Advanced Crime Scene Investigation - June 1996

Intoxilyzer 5000 Users Group Seminar - August 1996

FBI Fingerprint Classification - October 1996

FBI Latent Print Development Techniques - February 1997

The Palm Print Symposium - March 1997

Advanced Crime Scene Photography - May 1997

Courtroom Testimony - October 1997

FBI Latent Print Identification - November 1997

Investigative Analysis of Homicides and Violent Crimes - August 1998

FBI Crime Scene Survey, Documentation and Sketching Course - June 2000

Washoe County Sheriff's Office Field Training Officer School - August 2001

V2. 88



CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

Jack A. Alian, Esq.  
360 W. Liberty Street  
Reno, NV 89501

DATED this 30<sup>th</sup> day of August, 2002.

K. Hany

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

09/06/02

MOTION TO CONFIRM TRIAL

HONORABLE

Deputy District Attorney Kristin Erickson represented the State.

JAMES W.

Defendant was present with counsel, Jack Alian, Esq. Probation

HARDESTY

Officer Heidi Poe was also present.

DEPT. NO. 9

Counsel for the Defendant addressed the Court and requested a one  
(1) week continuance. Counsel for the State had no objection.

C. Wynn

COURT ORDERED: Matter continued.

(Clerk)

D. Davidson

Defendant remanded to the custody of the Nevada Dept. of  
Corrections.

(Reporter)

9/11/02

08:30 a.m.

Motion to  
Confirm

CR02-0147 DC-09900055303-111  
STATE VS FERRILL JOSEPH VOLPI 1 Page  
District Court 09/06/2002 08:30 AM  
Washoe County  
MIN  
MTABDEC

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

09/11/2002  
HONORABLE  
JAMES W.  
HARDESTY  
DEPT. NO. 9  
T. Prince  
(Clerk)  
D. Davidson  
(Reporter)MOTION TO CONFIRM TRIAL

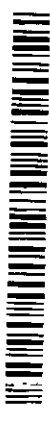
Deputy District Attorney Sean Sullivan represented the State. Defendant was present with counsel, Jenny Hubach, Esq. appearing on behalf of Jack Alian, Esq. Probation Officer Heidi Poe was present on behalf of the Division of Parole and Probation.

Defense counsel moved in limine that any reference to R.O.P.E. will not be mentioned and further moved in limine to redact the priors from the Information for purposes of trial. Counsel for the State so stipulated. Respective counsel further stipulated that the prior convictions will not be used during trial unless the Defendant takes the stand and then the State may use them for impeachment purposes. Defense counsel further addressed the Court advising that they have only received photos relating to the vehicle contained in Count I and further that they will not be ready to proceed on Counts II and III without photos of the vehicle contained therein. Discussion at the bench between respective counsel and the Court. Defense counsel advised the Defendant of the discussion at the bench.

COURT ORDERED: Motion to confirm trial date GRANTED. Court further stated that the trial will proceed on all Counts unless the State is unable to obtain the evidence relating to Counts II and III after which time the Court will determine if the evidence is exculpatory.

COURT FURTHER ORDERED: Defendant to remain incarcerated in the Washoe County Jail until completion of the trial.

Defendant was remanded to the custody of the Nevada Department of Corrections.

09/23/2002  
8:30 a.m.  
Jury Trial  
(2 days)

CR02-0147  
STATE VS. FERRILL  
District Court  
Washoe County  
DC-09900055303-110  
JOSEPH VOLPI 1 Page  
09/11/2002 08:30 AM  
MIN  
MT02REC  
hnc

ORIGINAL

FILED

SEP 16 2002

RONALD A. LONGTIN, JR., CLERK

By: Smile  
DEPUTY

CODE 4185

DC-09900055260-069  
STATE VS FERRILL JOSEPH VOLP 6 Pages  
District Court 09/16/2002 11:41 AM  
Washoe County 4185  
MTR/DBB

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0145

CR02-0146

CR02-0147

CR02-0148

vs.

Dept. No. 9

FERRILL JOSEPH VOLPICELLI,

Defendant.

TRANSCRIPT OF PROCEEDINGS

MOTION TO CONFIRM TRIAL  
PETROCELLI HEARING

SEPTEMBER 6, 2002

RENO, NEVADA

Reported by:

DONNA DAVIDSON, CCR #318, RMR, CRR  
Computer-Aided Transcription

## A P P E A R A N C E S

For the Plaintiff:

SEAN SULLIVAN  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

For the Defendant:

JACK A. ALIAN  
Attorney at Law  
360 W. Liberty Street  
Reno, Nevada 89501

1 RENO, NEVADA, FRIDAY, SEPTEMBER 6, 2002, 8:30 A.M.

2 --oOo--

3  
4 THE COURT: Please be seated.

5 State versus Ferrill Volpicelli, CR02-0145,  
6 02-0146, 02-0147, 02-0148.

7 Is Mr. Volpicelli here?

8 MR. ALIAN: Your Honor, apparently he hasn't been  
9 transported from the prison. At least we haven't seen him  
10 yet.

11 THE COURT: Okay.

12 MR. ALIAN: If not -- wait a minute. I think he  
13 is here now, Your Honor.

14 THE COURT: All right. Very good.

15 MR. SULLIVAN: Good morning, Your Honor, Sean  
16 Sullivan on behalf of the State.

17 THE COURT: Good morning, Mr. Sullivan.

18 Ms. Poe is here for the Division of Parole and  
19 Probation. How are you, Ms. Poe? Mr. Alian is here for  
20 Mr. Volpicelli.

21 All right. There are various matters before the  
22 Court. The principal matter, as I understand it, is to  
23 confirm the trial in case number 02-0147 for July the  
24 23rd. Is that correct?

1 MR. ALIAN: That is correct, Your Honor.  
2 However, at this time, both the State and I are going to  
3 be asking the Court to respectfully consider resetting  
4 this particular matter until next Wednesday. There is  
5 a -- there are some photographs that the district attorney  
6 has just obtained, and we want to take a look at them, and  
7 they have sent them out for -- last week, and they are  
8 having some trouble getting back.

9 And depending upon what those photos show, as I  
10 told the State, we may or may not be asking for a  
11 continuance of that particular trial. And the State just  
12 learned of these photos about a week ago and quite frankly  
13 are having a hard time finding them from the police.

14 THE COURT: So you want to continue the motion to  
15 confirm for next Wednesday?

16 MR. ALIAN: Yes, Your Honor. That's correct.

17 THE COURT: What about case number 02-0148? It  
18 was set for trial the 25th. I don't believe it was  
19 discussed in the parties' stipulation regarding the other  
20 two cases. Are you still intending to go to trial on that  
21 case?

22 MR. ALIAN: We are at this point, Your Honor.

23 MR. SULLIVAN: Court's indulgence, Your Honor.

24 MR. ALIAN: Your Honor, we had continued two

1 cases, we meant to continue the third, as well, but we  
2 can't make that representation at this point, but it  
3 probably will not be going.

4 THE COURT: All right. I will continue all four  
5 cases then to next Wednesday at 8:30; motion to confirm in  
6 case 02-0147 and motion to confirm in case 02-0148 and  
7 status hearings in cases 02-0146 and 02-0145.

8 MR. ALIAN: Thank you, Your Honor.

9 MR. SULLIVAN: Thank you, Your Honor.

10 THE COURT: And I will leave the trials on for  
11 both of those other two cases at this point.

12 MR. ALIAN: Thank you, Your Honor.

13 THE COURT: All right.

14 (Proceedings concluded.)

15 --oOo--

16

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21

22

23

24



1 STATE OF NEVADA           )  
                                  )    ss.  
2 COUNTY OF WASHOE        )

3           I, DONNA DAVIDSON, Official Reporter of the  
4 Second Judicial District Court of the State of Nevada, in  
5 and for the County of Washoe, do hereby certify:

6           That as such reporter, I was present in  
7 Department No. 9 of the above court on said date, time and  
8 hour, and I then and there took verbatim stenotype notes  
9 of the proceedings had and testimony given therein.

10           That the foregoing transcript is a full, true and  
11 correct transcript of my said stenotype notes, so taken as  
12 aforesaid.

13           That the foregoing transcript was taken down  
14 under my direction and control, and to the best of my  
15 knowledge, skill and ability.

16  
17           DATED: At Reno, Nevada, this 12th day of  
18 September, 2002.

19  
20  
21                               *Donna Davidson*  
22                               DONNA DAVIDSON, CCR #318  
23  
24

ORIGINAL

3980

FILED

02 SEP 17 PM 1:45

RONALD A. LONGTIN, JR.

BY

DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA

Plaintiff,

v.

CASE NO.: CR02-0147

DEPT. NO.: 9

FERRILL JOSEPH VOLPICELLI,

Defendant.

**REQUEST FOR CONTINUANCE,**  
**STIPULATION AND ORDER**


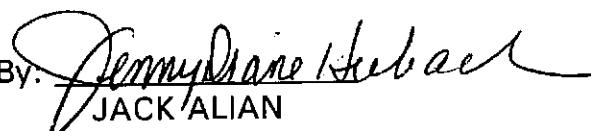
IT IS HEREBY STIPULATED, by and between the parties herein, Defendant, FERRILL JOSEPH VOLPICELLI, by and through JACK ALIAN, his attorney, and the Washoe County District Attorney, by and through Deputy District Attorney SEAN SULLIVAN and stipulate that the **TRIAL** scheduled for SEPTEMBER 23, 2002, at 8:30 A.M. be vacated and the parties hereto meet and confirm a new trial date within ten days.

1 This continuance is necessary and not made for the purposes of delay.

2  
3 Additional issues of discovery have arisen and will be resolved; however, additional  
4 time is needed in order to prepare this matter for trial.

5  
6 RESPECTFULLY SUBMITTED this 17<sup>th</sup> day of Sept., 2002.

7  
8  
9 RICHARD A. GAMMICK LAW OFFICES OF JACK ALIAN  
Washoe County District Attorney

10  
11  
12 By:  By:   
13 SEAN SULLIVAN JACK ALIAN

FILED

9-17-02  
RONALD A. LONGTIN, JR., ClerkBy D. Coney  
Deputy Clerk

4025

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA

Plaintiff,

v.

CASE NO.: CR02-0147

DEPT. NO.: 9

FERRILL JOSEPH VOLPICELLI,

ORDER

GOOD CAUSE APPEARING it is hereby Ordered that the TRIAL in CR02-0145 heretofore set for SEPTEMBER 23, 2002 AT 8:30 A.M. be vacated and the parties hereto are hereby ordered to reset the matter for trial with this Court's Administrative Assistant within ten (10) days of the date of this order.

DATED this 17 day of September, 2002.

James W. Hurdeth  
DISTRICT JUDGE

ORIGINAL FILED

4025

02 SEP 17 PM 1:46

RONALD A. LONGTIN, JR.

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA

Plaintiff,

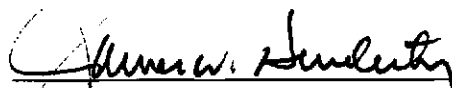
v.

CASE NO.: ~~CR02-0147~~, 02-0145;  
02-0148 AND 02-0146  
DEPT. NO.: 9

FERRILL JOSEPH VOLPICELLI,

ORDER

GOOD CAUSE APPEARING AND THE TRIAL IN THIS MATTER HAVING BEEN  
PREVIOUSLY SET TO COMMENCE SEPTEMBER 23, 2002, HOWEVER, VACATED;  
**IT IS HEREBY ORDERED** that the defendant, above-named, be remanded back to  
the custody of the Nevada State Prison for completion of his pending prison term.  
He is to be transported from the Washoe County Jail back to the Northern Nevada  
Correctional Facility, Nevada State Prison immediately.

DATED this 17 day of September, 2002.


DISTRICT JUDGE

CR02-0147  
STATE VS FERRILL  
District Court  
Washoe County  
DC-09900055260-066  
JOSEPH VOLPICELLI  
09/17/2002 10:22 AM  
3370  
MTN00000

CR02-0147 DC-0990005260-065  
 STATE VS FERRILL JOSEPH VOL 12 Pages  
 District Court 09/25/2002 11:06 AM  
 Washoe County 4185  
 MTADDEC

ORIGINAL

CODE 4185

FILED

SEP 25 2002

RONALD A. LONGTIN, JR., CLERK

By:   
 DEPUTY

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0145

CR02-0146

CR02-0147

CR02-0148

vs.

Dept. No. 9

FERRILL JOSEPH VOLPICELLI,

Defendant.  
 \_\_\_\_\_/

TRANSCRIPT OF PROCEEDINGS

STATUS HEARING  
 MOTION TO CONFIRM

SEPTEMBER 11, 2002

RENO, NEVADA

Reported by:

DONNA DAVIDSON, CCR #318, RMR, CRR  
 Computer-Aided Transcription

A P P E A R A N C E S

For the Plaintiff:

SEAN SULLIVAN  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

For the Defendant:

JENNY D. HUBACH  
Attorney at Law  
360 West Liberty Street  
Reno, Nevada 89501

1 RENO, NEVADA, WEDNESDAY, SEPTEMBER 11, 2002, 9:03 A.M.

2 --oOo--

3  
4 THE COURT: State versus Ferrill Volpicelli,  
5 CR02-0145, CR02-0146, CR02-0147 and CR02-0148.

6 MR. SULLIVAN: Good morning, Your Honor, Sean  
7 Sullivan on behalf of the State.

8 THE COURT: Good morning, Mr. Sullivan.  
9 Ms. Hubach is here on behalf of Mr. Volpicelli.

10 This is a status hearing and a continued motion  
11 to confirm.

12 Are you ready to proceed, counsel?

13 MS. HUBACH: Yes, Your Honor. First I'm  
14 appearing on behalf of Jack Alian, who is the attorney  
15 of record in this case.

16 Secondly, for the record I've handed  
17 Mr. Volpicelli a copy of his complete discovery as  
18 provided to my office by the State.

19 Thirdly there are some issues, motions in  
20 limine which have been agreed to by way of stipulation  
21 I'd just like to put on the record briefly.

22 One, we were going to move in limine to prevent  
23 the State from making any reference to the ROP team  
24 being involved in this case. Mr. Sullivan has agreed to



1 stipulate to that. He will in his pretrials with the  
2 officers advise them that is not to be mentioned.

3 THE COURT: Is that correct, Mr. Sullivan?

4 MR. SULLIVAN: That is correct, Your Honor.

5 MS. HUBACH: Secondly, there was an issue with  
6 respect to habitual criminal, prior convictions. It's  
7 my understanding the State will be redacting any  
8 information prior to its being read to the jury so that  
9 we don't have that issue come up in terms of priors.

10 MR. SULLIVAN: That's correct, Your Honor.

11 THE COURT: And thirdly, there is still an  
12 outstanding discovery issue that had to do with  
13 photographs of a Mazda vehicle.

14 Mr. Sullivan has shown me pictures of the  
15 Explorer this morning, but the agreement was in this  
16 case all along that if the State released either or both  
17 of those vehicles they were to be photographed first.

18 Mr. Sullivan unfortunately is in a position now  
19 where he's not sure -- the only roll of film he was able  
20 to obtain he had developed immediately, we appreciate  
21 that, but that is only one car, they didn't photograph  
22 both vehicles.

23 Without those photographs and without that  
24 vehicle, we are not going to be able to go forward with

1 the trial on that particular count.

2 The last issue, if the Court maintains this  
3 trial date, which we had all hoped that we could, but  
4 again it's beyond Mr. Sullivan's control and certainly  
5 beyond our control at this point, but if you do decide  
6 to go forward with this case, I'm going to ask  
7 Mr. Volpicelli to remain in the Washoe County Jail until  
8 his first trial is over.

9 MR. SULLIVAN: Judge, the State's response is  
10 that it would like to maintain the September 23rd trial  
11 date.

12 As far as the photographs are concerned, I had  
13 made a number of phone calls concerning any photographs  
14 in connection with this case. I sent a discovery  
15 request over.

16 It's my understanding, after talking to the  
17 agencies and the photo labs that this was the only roll  
18 of film booked into evidence.

19 I have shown the defense that roll of film or  
20 the prints this morning.

21 As far as the other car being photographed, I'm  
22 not privy to whether the vehicles have been released at  
23 this time. They still could be in impound. I'm not  
24 exactly sure.

1 Ms. Hubach has spoken with Kristin Erickson  
2 concerning this case, and it's my understanding that  
3 Ms. Hubach and Ms. Erickson agreed that if the cars were  
4 in fact released, both cars should have been  
5 photographed. I can't represent at this time whether or  
6 not the cars had been released. I apologize to the  
7 Court for that. So we will have to investigate that.

8 But I would like to maintain the 9-23 trial  
9 date. Everything that Ms. Hubach has mentioned to this  
10 Court is accurate. Just because the case has been  
11 continued not due to the State or the defense not one or  
12 the other, but the State's position is that we would  
13 like to get this trial on. Certainly we can get on at  
14 least one of the counts.

15 There is mention of the defendant's prior  
16 conviction. I just wanted to put on the record that  
17 it's the State's understanding that the prior will not  
18 be mentioned at trial in any way, shape or form and that  
19 it will only be mentioned or used for enhancement  
20 purposes at sentencing if the defendant is in fact found  
21 guilty.

22 THE COURT: Well --

23 MS. HUBACH: Your Honor, if I may interrupt  
24 just briefly, we would be able to proceed on Count 1

1 that deals with the Explorer, and we're in agreement  
2 with that, but Counts 2 and 3 deal with the vehicle that  
3 is either, according to my client, released or -- and he  
4 has contact with his family who in fact the owner of  
5 that car, but if that wasn't photographed we're going to  
6 have a serious evidentiary issue.

7 THE COURT: Well, we are talking about case  
8 0147, correct?

9 MR. SULLIVAN: That's correct, Your Honor.

10 MS. HUBACH: Yes, Your Honor.

11 THE COURT: So are you saying that the absence  
12 of any photographs of the other vehicle may impact the  
13 other counts, Ms. Hubach?

14 MS. HUBACH: No, only the counts pertaining to  
15 that vehicle. Now, one count pertains to the Explorer,  
16 two counts pertain to the Mazda it's my understanding;  
17 so Count 1 we could actually proceed on if the State  
18 desires to do that, and we're prepared and ready to go.

19 But with respect to the other two counts that  
20 deal with the Mazda, we have to find out where that car  
21 is and figure out what happened to the photographs, if  
22 they were taken.

23 THE COURT: And those are Counts 2 and 3?

24 MS. HUBACH: Correct.

1 THE COURT: So you would only be proceeding on  
2 Count 1 potentially?

3 MS. HUBACH: Correct.

4 THE COURT: Okay.

5 MS. HUBACH: And it's also my understanding  
6 that all of the other trials that have been set are set  
7 for a status hearing on the 23rd, and the State was  
8 going to ask that all those cases be shifted to the 23rd  
9 of October for a status. We have no objection to that.

10 But we do need to resolve the issue of this  
11 particular trial.

12 THE COURT: Does that include the case that was  
13 set for September 25th?

14 MS. HUBACH: Yes, Your Honor.

15 THE COURT: All right. Well, I guess given the  
16 number of other cases that we're postponing to October  
17 23rd, postponing these other counts, if necessary, is  
18 something that we could do, but I would just as soon get  
19 the matter concluded.

20 MR. SULLIVAN: Judge, may I have the Court's  
21 indulgence just for one second?

22 THE COURT: Yes.

23 MS. HUBACH: May we approach?

24 THE COURT: All right.

1 (Off-the-record discussion at the bench.)

2 THE COURT: All right. Ms. Hubach, do you want  
3 to discuss with your client the conference at the bench.

4 MS. HUBACH: Yes, Your Honor. Thank you, Your  
5 Honor.

6 THE COURT: All right. Mr. Sullivan, did you  
7 wish to clarify the State's participation in the  
8 stipulation regarding the use of prior convictions?

9 MR. SULLIVAN: Yes, Your Honor. Thank you.

10 It's my understanding, after speaking with  
11 Ms. Hubach concerning the prior conviction alleged in  
12 the State's information, that if the defendant chooses  
13 to waive his constitutional rights and take the stand,  
14 the State may use the prior for impeachment purposes.

15 THE COURT: Is that part of the stipulation  
16 then?

17 MS. HUBACH: That's our understanding as to the  
18 state of the law, that should Mr. Volpicelli opt to take  
19 the stand in his own defense then certainly the State  
20 can cross-examine using his prior felony convictions for  
21 impeachment purposes.

22 THE COURT: But it's still subject to the  
23 Court's determination of admissibility?

24 MS. HUBACH: Correct, Your Honor.

1 MR. SULLIVAN: Correct, Your Honor.

2 THE COURT: So we'll have to make that  
3 determination, if he takes the stand, outside the  
4 presence of the jury.

5 MR. SULLIVAN: That's my understanding, Your  
6 Honor.

7 MS. HUBACH: Yes, Your Honor.

8 THE COURT: All right. Okay. All right. Then  
9 we will proceed to trial on all three counts on the  
10 23rd, unless the State advises the Court that it has  
11 been unable to obtain the evidence for Counts 2 and 3,  
12 or at least the photos of the vehicle.

13 In that event, Counts 2 and 3, along with all  
14 the other three cases, will be postponed to a status  
15 conference to be conducted on October the 23rd at 8:30.  
16 That includes case number 02-0148. And the jury trial  
17 for the 25th of September is vacated in that case.

18 The Court will hold a hearing on October 23rd  
19 as to Counts 2 and 3 in case 0147 to determine whether  
20 the evidence would have been exculpatory and whether the  
21 evidence should be excluded in any future trials if it  
22 is no longer available. If we don't proceed to trial on  
23 Counts 1 and 2 -- excuse me, 2 and 3 at the time of the  
24 trial on September 23rd.

1 All right. Anything further, counsel?

2 Mr. Volpicelli will remain in the custody of  
3 the Washoe County Sheriff's Office pending trial on the  
4 23rd.

5 MS. HUBACH: Thank you very much, Your Honor.

6 MR. SULLIVAN: Thank you, Your Honor.

7 THE COURT: All right.

8 (Proceedings concluded.)

9 --oOo--

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1 STATE OF NEVADA       )  
                              )     ss.  
2 COUNTY OF WASHOE     )

3           I, DONNA DAVIDSON, Official Reporter of the  
4 Second Judicial District Court of the State of Nevada,  
5 in and for the County of Washoe, do hereby certify:

6           That as such reporter, I was present in  
7 Department No. 9 of the above court on said date, time  
8 and hour, and I then and there took verbatim stenotype  
9 notes of the proceedings had and testimony given  
10 therein.

11           That the foregoing transcript is a full, true  
12 and correct transcript of my said stenotype notes, so  
13 taken as aforesaid.

14           That the foregoing transcript was taken down  
15 under my direction and control, and to the best of my  
16 knowledge, skill and ability.

17  
18           DATED: At Reno, Nevada, this 12th day of  
19 September, 2002.

20  
21  
22                               *Donna Davidson*  
23                               DONNA DAVIDSON, CCR #318  
24

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

## APPEARANCES-HEARING

## CONTINUED TO

10/23/02  
HONORABLE  
JAMES W.  
HARDESTY  
DEPT. NO. 9  
C. Wynn  
(Clerk)  
D. Davidson  
(Reporter)

MOTION TO SET TRIAL  
Deputy District Attorney Kristin Erickson represented the State.  
Jenny Hubach, Esq. represented the Defendant who was not  
present. Probation Officer Laura Pappas was also present.  
Respective counsel addressed the Court confirming this matter for  
trial.  
COURT ORDERED: Motion to set trial GRANTED. Matter  
continued for trial by jury.

02/26/02  
08:30 a.m.  
Motion/Confirm  
  
03-06-02  
08:30 a.m.  
Jury Trial  
(2 Days)

CR02-0147  
STATE VS FERRILL JOSEPH VOLPI 1 page  
District Court 10/23/2002 08:30 AM  
Washoe County  
MIN  
MTABFC

CODE 4185

ORIGINAL

FILED

NOV 06 2002

RONALD A. LONGTIN, JR., CLERK  
By: *[Signature]*  
DEPUTY

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0146

CR02-0147

CR02-0148

CR98-2160

vs.

Dept. No. 9

FERRILL JOSEPH VOLPICELLI,

Defendant.

TRANSCRIPT OF PROCEEDINGS

MOTION TO SET TRIAL

OCTOBER 23, 2002

RENO, NEVADA

Reported by:

DONNA DAVIDSON, CCR #318, RMR, CRR  
Computer-Aided Transcription

CR02-0147 DC-09900055260-064  
STATE VS FERRILL JOSEPH VOLP 5 Pages  
District Court 11/06/2002 09:58 AM  
Washoe County 4185  
NAC

A P P E A R A N C E S

For the Plaintiff:

KRISTIN L. ERICKSON  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

For the Defendant:

JENNY D. HUBACH  
Attorney at Law  
360 West Liberty Street  
Reno, Nevada 89501

1 RENO, NEVADA, WEDNESDAY, OCTOBER 23, 2002, 8:46 A.M.

2 --oOo--

3  
4 THE COURT: State versus Ferrill Volpicelli.

5 MS. ERICKSON: Good morning, Your Honor, Kristin  
6 Erickson for the State.

7 THE COURT: Good morning, Ms. Erickson. This is  
8 in CR02-0146, I believe. That at least is the case that  
9 the parties intended to set for trial.

10 There are three other cases, CR98-2160, CR02-0147,  
11 and CR02-0148. It's my understanding that the parties are  
12 stipulating to trail those cases behind the trial in 0146;  
13 is that right?

14 MS. HUBACH: That's correct.

15 MS. ERICKSON: Yes, Your Honor. Or we can simply  
16 set them after this case. Court's preference.

17 THE COURT: Okay. We're resetting the trial in  
18 0146. It is a two-day trial still; is that right?

19 MS. HUBACH: Yes, Your Honor.

20 THE COURT: Okay. And the defendant waived 60  
21 days sometime ago, as I understand it?

22 MS. HUBACH: Yes, Your Honor. And unfortunately  
23 we --

24 THE COURT: Do counsel have a -- excuse me?

1 MS. HUBACH: I'm sorry. We were going to ask for  
2 a date in March. We have a five-week murder trial in  
3 January, three sexual assaults already in February.

4 THE COURT: Okay.

5 MS. HUBACH: And this will be a firm setting, so I  
6 would rather get a date that everyone can work with.

7 THE COURT: March 6th, which is a Thursday, at  
8 8:30. And a motion to confirm in the case will be set for  
9 March -- excuse me, February 26th at 8:30. All the other  
10 cases will trail to February 26th at 8:30.

11 MS. HUBACH: Thank you, Your Honor.

12 THE COURT: Is there any pretrial motion practice  
13 in the case?

14 MS. HUBACH: Not at this point, Your Honor. Some  
15 of it depends on the pending discovery issues.

16 (Proceedings concluded.)

17 --oOo--

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1 STATE OF NEVADA )  
2 COUNTY OF WASHOE ) SS.  
3


4 I, DONNA DAVIDSON, Official Reporter of the Second  
5 Judicial District Court of the State of Nevada, in and for  
6 the County of Washoe, do hereby certify:

7 That as such reporter, I was present in Department  
8 No. 9 of the above court on said date, time and hour, and I  
9 then and there took verbatim stenotype notes of the  
10 proceedings had and testimony given therein.

11 That the foregoing transcript is a full, true and  
12 correct transcript of my said stenotype notes, so taken as  
13 aforesaid.

14 That the foregoing transcript was taken down under  
15 my direction and control, and to the best of my knowledge,  
16 skill and ability.

17 DATED: At Reno, Nevada, this 1st day of  
18 November, 2002.

19  
20  
21   
22 DONNA DAVIDSON, CCR #318  
23  
24

DA #213988

RPD RP01-213180  
RP01-217923

CODE 1800

Richard A. Gammick  
#001510P.O. Box 30083  
Reno, NV 89520-3083  
(775) 328-3200

Attorney for Plaintiff

FILED  
2003 FEB 21 PM 3:00

RONALD L. LUNA, JR.

BY  DEPUTY

ORIGINAL

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

Defendant.

AMENDED INFORMATION

RICHARD A. GAMMICK, District Attorney within and for the County of Washoe, State of Nevada, in the name and by the authority of the State of Nevada, informs the above entitled Court that FERRILL JOSEPH VOLPICELLI, the defendant above named, has committed the crimes of:

COUNT I. INDECENT EXPOSURE, a violation of NRS 201.220, a felony, (F570) in the manner following:

That the said defendant on or between the 25th day of September A.D. 2001, and the 27th day of September A.D. 2001, or thereabout, and before the filing of this Information, at and within the County of Washoe, State of Nevada, did willfully and



1 unlawfully on one or more occasions make an open and indecent or  
2 obscene exposure of his person to Detective PATRICIA BROWN and/or  
3 the public at large, in a public parking lot during daytime  
4 hours, located at 10500 North McCarran Boulevard, and/or 5150 Mae  
5 Anne Boulevard, Reno, County of Washoe, State of Nevada, in that  
6 the said defendant did masturbate inside a vehicle, after having  
7 been previously convicted of Indecent Exposure on November 22,  
8 1984, for an offense which occurred on April 15, 1983, in Sparks,  
9 Nevada.

10 COUNT II. OPEN OR GROSS LEWDNESS, a violation of NRS  
11 201.210, a felony, (F755) in the manner following:

12 That the said defendant on or between the 25th day of  
13 September A.D. 2001, and the 27th day of September A.D. 2001, or  
14 thereabout, and before the filing of this Information, at and  
15 within the County of Washoe, State of Nevada, did willfully and  
16 unlawfully on one or more occasions commit an act of open or  
17 gross lewdness in a public parking lot during daytime hours,  
18 located at 10500 North McCarran Boulevard, AND/OR 5150 Mae Anne  
19 Boulevard, Reno, Washoe County, Nevada, in that the said  
20 defendant did masturbate inside a vehicle, after having been  
21 previously convicted of Indecent Exposure on November 22, 1984,  
22 for an offense which occurred on April 15, 1983, in Sparks,  
23 Nevada.

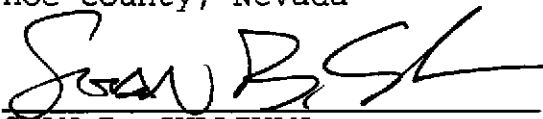
24 ///

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1 All of which is contrary to the form of the Statute in  
2 such case made and provided, and against the peace and dignity of  
3 the State of Nevada.

4 RICHARD A. GAMMICK  
5 District Attorney  
6 Washoe County, Nevada

7 By:   
8 SEAN B. SULLIVAN  
9 7534  
10 Deputy District Attorney  
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Pursuant to NRS 174.234, the following are the names and addresses of such witnesses the State intends to call in its case in chief.

RENO POLICE DEPARTMENT

OFFICER PATRICIA BROWN  
OFFICER ADAM WYGNANSKI  
OFFICER REED THOMAS

WASHOE COUNTY SHERIFF'S OFFICE

BRIAN PHAY

WASHOE COUNTY CRIME LAB

SUZANNE HARMAN  
JEFFREY ROLANDS

FORSENIC ANALYSIS OF ALCOHOL  
TONI LEAL-OLSON  
SHANE BILLAU

DNA ANALYST

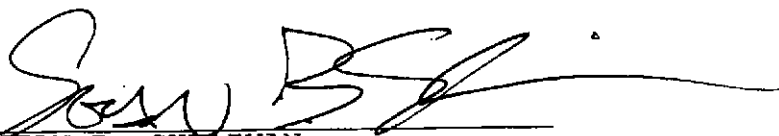
CUSTODIAN OF RECORDS, NEVADA UROLOGY

LORI INMAN, 6870 SANDIA DRIVE, RENO, NV

///

1 NRS 174.234 also requires the defendant, at least five  
2 judicial days prior to the trial date, to file and serve upon the  
3 prosecuting attorney a written notice containing the name and  
4 last known address of any witness the defendant intends to call  
5 during his/her case-in-chief. Failure to do so may result in the  
6 exclusion of the witness.

7  
8 RICHARD A. GAMMICK  
9 District Attorney  
10 Washoe County, Nevada

11  
12 By   
13 SEAN B. SULLIVAN  
14 Deputy District Attorney  
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CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

02/26/03

MOTION TO CONFIRM TRIAL

HONORABLE

Deputy District Attorney Sean Sullivan represented the State. John Kadlic, Esq. represented the Defendant who was not present.

03/21/03

JAMES W.

Probation Officer Laura Pappas was also present.

08:30 a.m.

HARDESTY

Counsel for the Defendant addressed the Court advising that the Defendant was not transported as no order to produce was filed.

Motion/Confirm

DEPT. NO. 9

Defense counsel further requested a continuance of the trial as he is scheduled to have knee surgery on the March 5, 2003. Counsel for the State had no objection.

04/09/03

T. Prince

COURT ORDERED: Motion to confirm trial DENIED. Court further ordered March 6, 2003, trial date vacated. Court further directed Counsel for the State to submit an order to produce prisoner for the next hearing.

08:30 a.m.

(Clerk)

Jury Trial

D. Davidson

(3 days)

(Reporter)

CR02-0147  
STATE VS FERRILL  
District Court  
Washoe County  
0C-0900005303-108  
JOSEPH VOLPI 1 Page  
02/26/2003 08:30 AM  
MIN  
MTORRES

FILED

2003 FEB 26 PM 2:04

RONALD J. MARTIN, JR.

BY DEPUTY

1 CODE 1260  
 Richard A. Gammick  
 #001510  
 P.O. 30083-3083  
 Reno, NV. 89520  
 (775)328-3200  
 Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR02-0147

12 FERRILL VOLPICELLI, (BAC# 60076)

Dept. No. 9

13 Defendant.

14  
 15 APPLICATION FOR ORDER TO PRODUCE PRISONER

16 COMES NOW, the State of Nevada, Plaintiff herein, by  
 17 and through RICHARD A. GAMMICK, District Attorney of Washoe  
 18 County, by SEAN B. SULLIVAN, Deputy District Attorney, and  
 19 alleges as follows:

20 1. That the above defendant, FERRILL VOLPICELLI, (BAC#  
 21 60076) is presently incarcerated at the Nevada State Prison,  
 22 Carson City, Nevada.

23 2. That the above FERRILL VOLPICELLI (BAC# 60076) is  
 24 scheduled for a Motion to Confirm Trial Date before the Second  
 25 Judicial District Court on Friday, March 21, 2003, at 8:30 a.m.  
 26

1 WHEREFORE, Applicant prays that an Order be made  
2 ordering the appearance of the said FERRILL VOLPICELLI (BAC#  
3 60076) before the Second Judicial District Court, and from time  
4 to time thereafter at such times and places as may be ordered and  
5 directed by the Court for such proceedings as thereafter may be  
6 necessary and proper in the premises, and directing the execution  
7 of said Order by the Sheriff of Washoe County, Nevada.

8 DATED this 26 day of February, 2003.  
9

10 RICHARD A. GAMMICK  
11 District Attorney  
12 Washoe County, Nevada

13 By   
14

15 SEAN B. SULLIVAN  
16 7534

17 Deputy District Attorney  
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FILED

2003 MAR -6 AM 9:38

RONALD A. LONGTIN, JR.

BY                       
DEPUTY

ORIGINAL

CODE 3340  
 Richard A. Gammick  
 #001510  
 P.O. 30083-3083  
 Reno, NV. 89520  
 (775)328-3200  
 Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL VOLPICELLI, (BAC# 60076)

Dept No. 9

Defendant.

ORDER TO PRODUCE PRISONER

IT APPEARING to the satisfaction of the above-entitled  
 Court that it is necessary that the Defendant above named,  
 FERRILL VOLPICELLI, (BAC# 60076) presently incarcerated in the  
 Nevada State Prison, Carson City, Nevada, be brought before the  
 Second Judicial District Court for a Motion to Confirm Trial Date  
 in the above-entitled action,



1 NOW, THEREFORE, IT IS HEREBY ORDERED that the Warden of  
2 the Nevada State Prison, Carson City, Nevada, bring the said  
3 prisoner (BAC# 60076) before the Second Judicial District Court  
4 on Friday, March 21, 2003, at the hour of 8:30 a.m., for a Motion  
5 to Confirm Trial Date in the above-entitled action and from time  
6 to time thereafter at such times and places as may be ordered and  
7 directed by the Court for such proceedings as thereafter may be  
8 necessary and proper in the premises.

9 DATED this 28 day of February, 2003.

10  
11 James W. Skenderly  
12 DISTRICT JUDGE  
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CODE: 4185

ORIGINAL

FILED

MAR 17 2003

RONALD A. LONGSTIN, JR., CLERK

By: *[Signature]*  
DEPUTY

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0147

Dept. No. 9

vs.

FERRILL JOSEPH VOLPICELLI,

Defendant.

\_\_\_\_\_ /

TRANSCRIPT OF PROCEEDINGS

MOTION TO CONFIRM TRIAL

FEBRUARY 26, 2003

RENO, NEVADA

Reported by:

DONNA DAVIDSON, CCR #318, RMR, CRR  
Computer-Aided Transcription

0-9  
3/21X  
CR02-0147  
STATE VS FERRILL JOSEPH VOLPICELLI  
District Court Washoe County  
DC-09900055260-060  
VOLP 7 Pages  
03/17/2003 05:23 PM  
4185  
MTNDRS

## A P P E A R A N C E S

For the Plaintiff:

SEAN SULLIVAN  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

For the Defendant:

JOHN J. KADLIC  
Attorney at Law  
147 Esat Liberty Street, Suite 2  
Reno, Nevada 89505

For the Division of Parole and Probation:

LAURA PAPPAS

1 RENO, NEVADA, WEDNESDAY, FEBRUARY 26, 2003, 8:30 A.M.

2 --oOo--

3  
4 THE COURT: State versus Ferrill Joseph  
5 Volpicelli, CR02-0147.

6 Mr. Whomes is here for the State. Mr. Kadlic is  
7 here on behalf of Mr. Volpicelli. Is that right?

8 MR. KADLIC: Yes, Your Honor.

9 MR. SULLIVAN: Sean Sullivan on behalf of the  
10 State, Your Honor.

11 THE COURT: Oh, I'm sorry, Mr. Sullivan.

12 Is Mr. Volpicelli here?

13 MR. KADLIC: Apparently the State didn't realize  
14 that they were supposed to bring him. He's at Nevada State  
15 Prison, so they did not do an order to produce, and so he  
16 is not here, Your Honor.

17 THE COURT: All right. Are we going to proceed to  
18 trial on March 6th?

19 MR. KADLIC: I'd like to proceed to a trial, but  
20 here's my catch 22. I'm going in for knee surgery on the  
21 13th of March for a torn medial meniscus. Today is a day  
22 when I'm actually walking in a better pace than I have been  
23 walking all week and actually got to sleep last night. I'm  
24 usually on pain medication.

1 I would prefer to continue it for a short time,  
2 but not very long, just simply because I can't guarantee  
3 the Court on that day -- if my knee is fine, I can sit  
4 through it; otherwise, sometimes I can't sit for more than  
5 a half hour at a time, and I don't know if I would want to  
6 BE sitting through a trial either on pain medication or  
7 having to move every half hour.

8 I would have had the surgery on the 6th but this  
9 matter was set for trial on that date and I didn't.

10 THE COURT: What's the State's position?

11 MR. SULLIVAN: Thank you, Your Honor. The State's  
12 position is it certainly doesn't want to impede  
13 Mr. Kadlic's medical procedures in any way, shape, or form;  
14 however, it's been continued once.

15 Both parties expect this to be a short trial, one  
16 day, perhaps two at the very most. But we're thinking  
17 maybe one day we might be able to rap this up.

18 The State is agreeable to a short continuance. In  
19 the alternative, the State, if Mr. Kadlic believes he can  
20 get it on in one or two days, in light of his knee  
21 problems, the State would like to maintain the March 6th  
22 date. The State would submit it to the Court.

23 THE COURT: Well, how long will you be  
24 recuperating, Mr. Kadlic, after the surgery?

1           MR. KADLIC: My doctor tells me I will be back  
2 playing golf within three weeks after the surgery. And  
3 that's probably the critical date in my mind.

4           But I am -- my understanding is actually within a  
5 day I'm up and around moving around. It's just -- I have  
6 no problem if we can do it -- if you have something --

7           THE COURT: What about April the 9th? It's a  
8 Wednesday.

9           MR. KADLIC: April the 9th works for me, Your  
10 Honor.

11          MR. SULLIVAN: That's fine with the State, Judge.

12          THE COURT: April the 9th at 10:00 a.m. Motion to  
13 confirm will be March the 21st at 8:30. The trial set for  
14 March the 6th is vacated.

15          MR. SULLIVAN: Thank you, Your Honor.

16          MR. KADLIC: And, Your Honor, can you order the  
17 State to make sure they bring Mr. Volpicelli and order that  
18 once we have him here that he has to stay here so I can  
19 communicate with him and discuss the issues for the trial.

20          THE COURT: Mr. Sullivan, if you'll prepare an  
21 order to produce, I'll execute it.

22          MR. SULLIVAN: I would be happy to, Your Honor.  
23 Thank you.

24          THE COURT: Okay. Anything further then on this

1 case?

2 MR. KADLIC: No, thank you, Your Honor.

3 MR. SULLIVAN: Thank you, Judge.

4 THE COURT: Mr. Kadlic, do you have any other  
5 matters in this department?

6 MR. KADLIC: No, I do not. Thank you, Your Honor.

7 THE COURT: All right.

8 (Proceedings concluded.)

9 --oOo--

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1 STATE OF NEVADA )  
2 ) SS.  
3 COUNTY OF WASHOE )

4 I, DONNA DAVIDSON, Official Reporter of the Second  
5 Judicial District Court of the State of Nevada, in and for  
6 the County of Washoe, do hereby certify:

7 That as such reporter, I was present in Department  
8 No. 9 of the above court on said date, time and hour, and I  
9 then and there took verbatim stenotype notes of the  
10 proceedings had and testimony given therein.

11 That the foregoing transcript is a full, true and correct  
12 transcript of my said stenotype notes, so taken as  
13 aforesaid.

14 That the foregoing transcript was taken down under  
15 my direction and control, and to the best of my knowledge,  
16 skill and ability.

17 DATED: At Reno, Nevada, this 28th day of  
18 February, 2003.

19  
20  
21   
22 DONNA DAVIDSON, CCR #318  
23  
24



CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

03/21/03

MOTION TO CONFIRM TRIAL

HONORABLE

Deputy District Attorney Kristin Erickson represented the State.

06/27/03

JAMES W.

Defendant was present with counsel John Kadlic, Esq. Probation

8:30 a.m.

HARDESTY

Officer Laura Pappas was present on behalf of the Division of Parole  
and Probation.

Motion/Confirm

DEPT. NO. 9

C. Wynn

Counsel for the State addressed the Court and moved for a

07/10/03

(Clerk)

continuance as there is a witness scheduling conflict. Defense

08:30 a.m.

D. Davidson

counsel had no objection to a continuance.

Jury Trial

(Reporter)

COURT ORDERED: Motion to confirm trial DENIED. Motion to  
continue trial date GRANTED.

(1 ½ day)

Trial date of April 9, 2003, ordered vacated.

Defendant was remanded to the custody of the Sheriff.

CR02-0147  
STATE VS FERRILL JOSEPH VOLPICELLI  
District Court  
Washoe County  
DC-09900055303-107  
Page 1  
03/21/2003 08:30 AM  
MIN  
MTAPRES

CR02-0147 DC-09900055303-118  
STATE VS FERRILL JOSEPH VOLP 7 Pages  
District Court 04/09/2003 04:22 PM  
Washoe County 4185  
MTPDPFC

CODE: 4185

FILED

APR 04 2003

RONALD A. LONGSTIN, JR., CLERK  
By: *[Signature]*  
DEPUTY

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0147  
Dept. No. 9

vs.

FERRILL JOSEPH VOLPICELLI,

Defendant.

\_\_\_\_\_ /

TRANSCRIPT OF PROCEEDINGS

MOTION TO CONFIRM TRIAL

MARCH 21, 2003

RENO, NEVADA

Reported by: DONNA DAVIDSON, CCR #318, RMR, CRR  
Computer-Aided Transcription

A P P E A R A N C E S

For the Plaintiff:

CHERYL HIER-JOHNSON  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

For the Defendant:

JOHN A. KADLIC  
Attorney at Law  
147 East Liberty Street  
Suite 2  
Reno, Nevada 89801

For the Division of Parole and Probation:

LAURA PAPPAS

1 RENO, NEVADA, FRIDAY, MARCH 21, 2003, 9:19 A.M.

2 --oOo--

3

4 THE COURT: State versus Ferrill Volpicelli,

5 CR02-0147.

6 Ms. Hier-Johnson, is this your case?

7 MS. HIER-JOHNSON: Yes, Your Honor, it is.

8 THE COURT: She is here for the State.

9 Mr. Kadlic is here on behalf of Mr. Volpicelli.

10 This is the time set to confirm trial for April  
11 9th.

12 Are counsel ready to go to trial on the 9th?

13 MS. HIER-JOHNSON: Your Honor, I advised  
14 Mr. Kadlic earlier in the week that a necessary witness,  
15 who is Ann Harmon with the crime lab, is not available  
16 the week of this trial.

17 On behalf of the crime lab she is hosting a  
18 training conference that's occurring here in Reno.

19 She's offered to make herself available at like  
20 a one-hour point in time where she could run in and  
21 testify from 3:45 to 4:45 on Wednesday, April 9th, but  
22 I'm not sure that would be enough time to have her  
23 adequately examined and cross-examined.

24 As an alternative she could make herself

1 available for videotape testimony prior to trial. Other  
2 than that, the State could not proceed without her.

3 THE COURT: Is she affected just on the 9th?

4 MS. HIER-JOHNSON: No, that entire week, the 7th  
5 through 11th.

6 THE COURT: What's your position, Mr. Kadlic?

7 MR. KADLIC: We have no problem continuing the  
8 trial.

9 As a matter of fact, Mr. Volpicelli has a number  
10 of other charges pending which are scheduled for trial in  
11 either May or June, which if he is convicted of those  
12 charges will probably resolve this case. This is the  
13 weakest of the cases that are not out there.

14 I do not represent him, at least at this point,  
15 on those other cases. My understanding Mr. Alian and  
16 Hubach do. There are probably eight or ten approximate  
17 charges.

18 This case probably has a fair chance of being  
19 resolved if he is convicted on those. So we would ask  
20 perhaps for a June date.

21 I have talked to Mr. Volpicelli. He has no  
22 objection to that. If we go to trial, he's going to have  
23 to stay here. He's doing a class down at the prison  
24 that's not going to finish until May 1, so he has no

1 objection either.

2 And, like I said, there's a fairly good chance  
3 this one will resolve if the others bring favorable  
4 results to the State.

5 THE COURT: You have no objection to continuing  
6 the case, Mr. Volpicelli?

7 THE DEFENDANT: No objection, Your Honor.

8 THE CLERK: Your Honor, the dates in the other  
9 cases are June 23rd at 8:30.

10 THE COURT: Well, I think I've got cases on May  
11 5th and May 7th, right?

12 MR. KADLIC: That's correct, Your Honor.

13 THE CLERK: Yes, you're right.

14 MS. HIER-JOHNSON: Your Honor, at this point, I  
15 am the deputy that will be prosecuting the cases in May  
16 and June, and I prefer to focus my attention on those  
17 theft-related charges at this juncture rather than trying  
18 to squeeze this in before the first trial set, which I  
19 believe is May 5th.

20 And following the trial on June 23rd, I start a  
21 murder trial in Judge Polaha's courtroom on July 7th.

22 Ms. Erickson will take this case over as soon as  
23 she's done at the legislature. So I think any time in  
24 July would suit her schedule if in fact this case did

1 have to go forward.

2 THE COURT: All right. Why don't we set the  
3 case for July the 7th. Are you available, Mr. Kadlic?

4 MR. KADLIC: Yes, I am, Your Honor.

5 And I anticipate this to be a day and a half  
6 trial, maybe even one day, based on the facts and  
7 circumstances. We might even consider -- I haven't had a  
8 chance to talk to Mr. Volpicelli, but we might be  
9 actually interested in trying this in front of you  
10 without a jury.

11 THE COURT: Well, then why don't I set it for  
12 July the 10th at 8:30. And we'll set the motion to  
13 confirm date for June the 27th at 8:30. Okay? All  
14 right. We'll see you back then.

15 MS. HIER-JOHNSON: Thank you.

16 MR. KADLIC: Thank you, Your Honor.

17 (Proceedings concluded.)

18 --oOo--

19

20

21

22

23

24

1 STATE OF NEVADA )  
2 ) ss.  
3 COUNTY OF WASHOE )

4 I, DONNA DAVIDSON, Official Reporter of the  
5 Second Judicial District Court of the State of Nevada,  
6 in and for the County of Washoe, do hereby certify:

7 That as such reporter, I was present in  
8 Department No. 9 of the above court on said date, time  
9 and hour, and I then and there took verbatim stenotype  
10 notes of the proceedings had and testimony given  
11 therein.

12 That the foregoing transcript is a full, true  
13 and correct transcript of my said stenotype notes, so  
14 taken as aforesaid.

15 That the foregoing transcript was taken down  
16 under my direction and control, and to the best of my  
17 knowledge, skill and ability.

18 DATED: At Reno, Nevada, this 31st day of March,  
19 2003.

20  
21 

22 DONNA DAVIDSON, CCR #318  
23  
24



CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

04/29/03

MOTION FOR AN O.R. RELEASE

HONORABLE

Deputy District Attorneys Tammy Riggs and Cheryl Hier-Johnson represented the State. Defendant was present with counsel, Jack Alian, Esq.

04/30/03

JAMES W.

8:30 a.m.

HARDESTY

Defense counsel addressed the Court and moved for an O.R. release; further advised that the Defendant will remain in custody on a pending Federal case; and further presented and affidavit to support his argument. Counsel Riggs objected to an O.R. release; further objected to the affidavit, as the document is not a sworn statement; and further requested that the Defendant be sworn as to the truthfulness stated in the document should the Court choose consider it. Defendant was sworn.

Motion for an  
O.R. Release

DEPT. NO. 9

C. Wynn

06/25/03

(Clerk)

08:30 a.m.

C. Vohl

Motion to  
Confirm

(Reporter)

07/10/03

Court inquired of the shift in financial burden on the State, as the Defendant would remain in custody on the federal case. Counsel Riggs replied.

08:30 a.m.

**COURT ORDERED:** Matter referred to Court Services for an O.R. investigation and interview to be submitted by 4/30/03. Court further ordered Court Services to contact the prosecutor and defense attorney in the federal matter. Court further set an additional hearing at which time it will render its decision.Jury Trial  
(1 1/2 days)

Defendant was remanded to the custody of the Sheriff.

**\*\*After court session the Court Clerk contacted Carl Hinxman of Court Services and advised him of the Court's order\*\*\***

CR02-0147  
DC-0990005303-039  
STATE VS FERRILL JOSEPH VOLPI 1 Page  
District Court 04/29/2003 02:19 PM  
Washoe County  
MIN  
MTNDEP

CASE NO. CR02-0147 STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI


DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

04/30/03  
HONORABLE  
JAMES W.  
HARDESTY  
DEPT. NO. 9  
S. Sattler  
(Clerk)  
D. Davidson  
(Reporter)**MOTION FOR OWN RECOGNIZANCE RELEASE INTO  
FEDERAL CUSTODY**

Deputy D.A. Cheryl Hier-Johnson and Deputy D.A. Tammy Riggs represented the State.  
Defendant present with counsel, Jack Alian.  
Probation Officer, Heidi Poe, also present.  
Counsel for State addressed the Court and indicated she had filed an opposition to Defendant's Oral Motion for Own Recognizance release late last night. Further, stated there was no economic advantage by housing the Defendant in Federal prison, strongly objected to an own recognizance release and/or a bail reduction and presented argument thereto; counsel for Defendant responded and stated there was a federal hold according to the Washoe County Jail alpha roster and made statements thereto; COURT ORDERED: Motion denied.  
Defendant remanded to the custody of the Sheriff.

06/27/03  
at 8:30 a.m.  
Motion to  
Confirm07/10/03  
at 8:30 a.m.  
Non-Jury Trial  
(2 Days)

CR02-0147  
STATE VS FERRILL JOSEPH VOLPI  
District Court  
Washoe County  
DC-09000055303-038  
04/30/2003 02:19 PM  
MIN  
MTADBLE  
hnc

ORIGINAL

FILED

MAY 02 2003

RONALD A. LONGTIN, JR., CLERK

By: m. Shull  
DEPUTY

CODE: 2528

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0147

vs.

Dept. No. 9

FERRILL JOSEPH VOLPICELLI,

Defendant.

NOTICE OF DOCUMENT RECEIVED BUT NOT CONSIDERED BY THE COURT

TO: District Attorney's Office and Defense counsel:

Take notice that the attached document has been received unsolicited by the Court. The Court has not reviewed the document. Further, the Court will not review the document absent an affirmative request to do so from a party.

///

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///

///

This document was considered by the Court only if initialed and dated by the Judge below.

Date

Judges Initials

FERRILL VOLPICELEY  
03-06889  
911 PARK BLVD  
RENO, NV 89572

4/30/03

To: JUDGE HARDESTY  
DEPT 9

02-0146

02-0148

DEAR JUDGE HARDESTY,  
ENCLOSED ARE COPIES OF LETTERS TO MR. ALAN.  
CLEARLY THEY REFLECT MY FRUSTRATION AS  
THERE ARE ISSUES CRITICAL TO MY DEFENSE WHICH  
HAVE NOT BEEN ADDRESSED. ONLY IN THE LAST  
DAY OR SO HAS THE "BAIL" ISSUE BEEN  
DEALT WITH AND ONLY TO ADDRESS MY  
COMPLAINTS.

ON ONE HAND I AM SWAYED BY MR. ALAN'S  
ADVICE AND STRATEGY TO WAIVE A TRIAL  
BY JURY. HOWEVER, I AM CONFUSED. IN  
THE PAST, HE ADVISED ME TO WAIVE MY  
PRELIMINARY HEARINGS WHICH COULD HAVE  
RESOLVED MANY ISSUES THAT LINGER TO THIS  
DAY.

AS I MENTIONED IN MY LETTER TO MR. ALAN,  
RECEIPT OF ALL THE DISCOVERY IS CRITICAL  
TO MY DEFENSE - ESPECIALLY WITH THE TWO  
TRIALS SCHEDULED NEXT WEEK. SPECIFICALLY,  
I AM IN NEED OF THE SEARCH WARRANT  
AND ITEMS SEIZED.

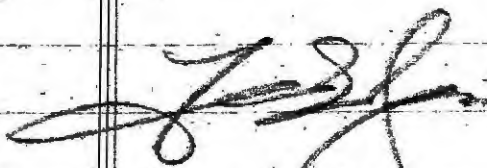
COMPOUNDING MATTERS, AND WITH MY  
TRANSFER OF CUSTODY FROM NDOC, I  
WENT WITHOUT MY PSYCHOTROPIC MEDS  
FOR IN EXCESS OF A WEEK. V2. 148/4

IN THE LAST COUPLE OF DAYS HAVE I  
RESUMED WITH MY REGIMINE OF MEDICATION  
CONSEQUENTLY, AND SINCE THE DRUG TAKE  
SEVERAL WEEKS TO A MONTH TO ACHIEVE  
THE APPROPRIATE SATURATION LEVELS, I  
DO NOT FEEL COMFORTABLE ENTERING TRIAL  
FROM A MENTAL & PHYSIOLOGICAL STANDPOINT  
SO, FOR THE FOREGOING REASONS, I AM  
RESPECTFULLY REQUESTING A CONTINUANCE  
ON THE PENDING TRIAL.

I AM CONFIDENT YOU UNDERSTAND MY  
PREDICAMENT.

THANK YOU.

Sincerely,



W. J. F. UNIT 9 CELL 13

cc: file.

RECEIVED

MAY 02 2003

Department Nine

CR02-0147 DC-0990005260-056  
 STATE VS FERRILL JOSEPH VOL 10 Pages  
 District Court 05/13/2003 03:57 PM  
 Washoe County 4185  
 XT000000

FILED

CODE: 4185

MAY 13 2003

RONALD A. LONGTIN, JR., CLERK

By: *[Signature]*  
DEPUTY

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0145

CR02-0146

CR02-0147

CR02-0148

Dept. No. 9

vs.

FERRILL JOSEPH VOLPICELLI,

Defendant.

TRANSCRIPT OF PROCEEDINGS

MOTION FOR O.R. RELEASE INTO FEDERAL CUSTODY

APRIL 30, 2003

RENO, NEVADA

Reported by:

DONNA DAVIDSON, CCR #318, RMR, CRR  
Computer-Aided Transcription

## A P P E A R A N C E S

For the Plaintiff:

TAMMY M. RIGGS  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

CHERYL HIER-JOHNSON  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

For the Defendant:

JACK A. ALIAN  
Attorney at Law  
360 W. Liberty Street  
Reno, Nevada 89501

For the Division of Parole and Probation:

HEIDI POE

1 RENO, NEVADA, WEDNESDAY, APRIL 30, 2003, 11:25 A.M.

2 --oOo--

3  
4 THE COURT: State versus Ferrill Volpicelli,  
5 CR02-0145, 02-0146, 02-0147 and 02-0148.

6 Is Ms. Riggs here?

7 MR. WHOMES: Same problem, Your Honor. We'll  
8 try to get the correct DA.

9 MR. ALIAN: Your Honor, I didn't see any of the  
10 DAs. They were here earlier.

11 THE COURT: All right. We'll trail it a couple  
12 minutes then.

13 (Proceedings adjourned.)

14 --oOo--



1 RENO, NEVADA, WEDNESDAY, APRIL 30, 2003, 11:49 A.M.

2 --oOo--

3  
4 THE COURT: I'll re-call Mr. Volpicelli's case.

5 Ms. Riggs is here for the State, Mr. Alian is  
6 here on behalf of Mr. Volpicelli, who is present.

7 This hearing was continued from yesterday on the  
8 request of a request by the defendant for OR release.

9 All right. Ms. Riggs, any supplemental  
10 position?

11 MS. RIGGS: Your Honor, Ms. Hier-Johnson will be  
12 stating the State's position.

13 THE COURT: Okay. Ms. Hier-Johnson.

14 MS. HIER-JOHNSON: Your Honor, last night I  
15 completed a written opposition to the motion made in  
16 court yesterday.

17 Has Your Honor had an opportunity to review the  
18 State's pleading?

19 THE COURT: Yes, I have.

20 MS. HIER-JOHNSON: Your Honor, I don't have any  
21 additional facts to add to the pleading alleged, except  
22 that I did have an opportunity to speak also to the  
23 Assistant US Attorney Danny Rotsel who originally  
24 prosecuted Mr. Volpicelli in federal court, and would

1 also probably be the prosecutor once they proceed with  
2 their supervised release violation.

3 He also confirmed the information that had been  
4 given to me by Officer Hunt.

5 I had attempted to procure Officer Hunt's  
6 attendance this morning, but, as I'm sure the Court's  
7 aware, the State can't compel her attendance without the  
8 federal government's permission, and we just couldn't  
9 obtain that in this short time between yesterday and  
10 today.

11 Her supervisor, her acting chief, believes that  
12 if in fact the Court wants to hear from her directly,  
13 they will -- it would -- with a couple weeks' notice  
14 they could probably obtain permission from the judge.

15 Based on the information provided in the State's  
16 pleadings, first off Your Honor seemed perhaps persuaded  
17 by the economic advantage of allowing Mr. Volpicelli to  
18 be incarcerated by the federal authorities, but there  
19 doesn't appear to be any economic advantage. He is  
20 not -- he's already served his federal sentence, and a  
21 substantial basis for the pending -- the outstanding  
22 warrant are the charges that are going to be tried in  
23 this department next week and over the next couple of  
24 months.

1           Their practice is typically to allow those lower  
2 court proceedings, those original jurisdiction  
3 proceedings to determine whether in fact a violation  
4 would be appropriate in federal court.

5           If in fact he were ORd in this case, it kind of  
6 sends a message that what we're dealing with isn't very  
7 important and will probably result in an OR in the  
8 federal system to allow us to conclude our cases so that  
9 they can determine whether or not violation of  
10 supervised release would be appropriate.

11           So it seems like it frustrates our purposes  
12 here. If he's ORd today, the federal government will in  
13 fact put their detainer on him, and he will probably  
14 have a detainer hearing this week. If they keep him in  
15 custody in order to bring him here for next week's  
16 trial, I'll have to try to obtain a writ of habeas  
17 corpus ad prosequendam, even if he's still sitting at  
18 the county jail, just to bring him here because he  
19 becomes a federal prisoner.

20           So they are actually trying to cooperate with  
21 the State authorities by holding off and letting us  
22 finish our job before they get involved. If in fact he  
23 were violated prior to the charges that were set during  
24 the summer, in all likelihood he would be sent to

1 Arizona, which means the district attorney's office will  
2 have to send two or three investigators by plane down  
3 there to pick him up, after having gone through all the  
4 federal red tape, to then bring him back here and have  
5 the trials.

6 With the possibility of him getting out and  
7 being at liberty without having to post any bail on  
8 these pending state charges for all the reasons stated  
9 in the motion, the State believes that he's an  
10 absolutely inappropriate candidate for an OR release.

11 That takes into consideration his criminal  
12 history, the fact that these charges were allegedly  
13 committed while he was on parole in the state system and  
14 on supervised release in the federal system.

15 These charges are nearly identical to what  
16 exactly he's done twice before; the two prior felony  
17 convictions that he has.

18 And as far as his ties to this community, they  
19 are dwindling. His relationship with his wife has  
20 fallen apart. They are divorced. Some of his children  
21 are old enough to be out of the home and they are not  
22 residing in the state. There are still some young  
23 children present. He's not a property owner.

24 There's all allegations that he has worked for

1 Sigstad and Associates, but there's information again  
2 from the federal probation officer that that employment  
3 is sketchy at best.

4 Mr. Volpicelli was followed both by his federal  
5 probation officer and detective assigned to the repeat  
6 offender program at the time that he was arrested on the  
7 charges before the Court now, and after following him  
8 for several days all day every day, he's in and out of  
9 the retail businesses all day every day.

10 He's watched copying down information off of UPC  
11 bar codes on merchandise in these retail establishments  
12 then seen leaving those establishments. He didn't  
13 appear to be even if on the payroll at Sigstad and  
14 Associates, he certainly didn't appear to be  
15 representing that employment interest based on the time  
16 he was followed.

17 Based on all those reasons, Your Honor, the  
18 State believes that an OR release or a bail reduction in  
19 this case would be absolutely inappropriate.

20 THE COURT: Mr. Alian, do you wish to be heard  
21 further on this matter?

22 MR. ALIAN: Your Honor, we have nothing further  
23 to add; although I today did make a copy of an alpha  
24 list from the Washoe County Jail and gave a copy to

1 counsel already.

2 If I may approach and give a copy to the Court,  
3 I made a copy to that face sheet which does indicate  
4 that there is a federal hold, at least according to the  
5 Washoe County Jail, on Mr. Volpicelli.

6 I wanted the Court to be aware. If I may  
7 approach?

8 THE COURT: Yes, please.

9 Okay. Anything further?

10 MR. ALIAN: No, Your Honor. We submit.

11 THE COURT: All right. Mr. Volpicelli does not  
12 meet the requirements necessary to satisfy an OR  
13 release, and that oral request is denied in these  
14 matters.

15 I'll see you on Monday.

16 MR. ALIAN: Thank you, Your Honor.

17 (Proceedings concluded.)

18 --oOo--

19

20

21

22

23

24

1 STATE OF NEVADA )  
2 ) SS.  
3 COUNTY OF WASHOE )

4 I, DONNA DAVIDSON, Official Reporter of the  
5 Second Judicial District Court of the State of Nevada,  
6 in and for the County of Washoe, do hereby certify:

7 That as such reporter, I was present in  
8 Department No. 9 of the above court on said date, time  
9 and hour, and I then and there took verbatim stenotype  
10 notes of the proceedings had and testimony given  
11 therein.

12 That the foregoing transcript is a full, true  
13 and correct transcript of my said stenotype notes, so  
14 taken as aforesaid.

15 That the foregoing transcript was taken down  
16 under my direction and control, and to the best of my  
17 knowledge, skill and ability.

18 DATED: At Reno, Nevada, this 8th day of May,  
19 2003.

20  
21   
22 DONNA DAVIDSON, CCR #318  
23  
24

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

06/12/03  
HONORABLE  
JAMES W.  
HARDESTY  
DEPT. NO. 9  
S. Sattler  
(Clerk)  
D. Davidson  
(Reporter)STATUS HEARING

Deputy D.A. Cheryl Hier-Johnson and Deputy D.A. Tammy Riggs represented the State.

Defendant present with counsel, Jenny Hubach on behalf of Jack Alian.

Probation Officer, Robert Tucker, also present.

Counsel for Defendant addressed the Court and indicated she was aware that they were still waiting for the psychiatric report. Further, noted the Defendant needed to place on the record the medications he was currently taking.

Defendant indicated he was taking the following medications:

**Prozac**

**Ibuprofen**

**Flexorall**

Counsel for State addressed the Court and indicated there was an Allen search warrant issue and stated she was restructuring the documentation in cases CR02-0145 and CR02-0146, indicating an Indictment had just been handed by the Grand Jury. Further, indicated she was seeking a competent determination in cases CR02-0145 and CR02-0146. In addition indicated this matter was set for trial to commence July 10, 2003 and noted that John J. Kadlic was counsel for the Defendant. Court indicated he wanted Mr. Kadlic present at the next court hearing.

Court requested written orders be prepared.

COURT ORDERED: Matter continued for report on a psychiatric evaluation.

Defendant remanded to the custody of the Sheriff.

06/18/03  
at 8:30 a.m.  
Report on  
Psychiatric  
Evaluation

CR02-0147  
STATE VS FERRILL JOSEPH VOLPICELLI  
District Court  
Washoe County  
DC-09500055303-037  
VOLPI 1 Page  
06/12/2003 02:18 PM  
MIN  
MT00010



CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

06/18/03

MOTION TO CONFIRM TRIAL

HONORABLE

Deputy District Attorney Tammy Riggs represented the State.

JAMES W.

Defendant was present with counsel, John Kadlic. Probation Officer

07/10/03

HARDESTY

Heidi Poe was also present.

08:30 a.m.

DEPT. NO. 9

Court reviewed reports from Drs. Hiller and Henson.

Jury Trial

C. Wynn

COURT ORDERED: Defendant found competent to aid and assist  
counsel in his own defense.

(2 Days)

(Clerk)

D. Davidson

Counsel for the Defendant addressed the Court confirming this  
matter for trial.


(Reporter)

Defense counsel addressed the Court and moved to waive

Defendant's right to a jury trial. Counsel for the State objected.

COURT ORDERED: Motion to confirm trial GRANTED. Court  
further ordered Defendant's Motion to waive jury trial DENIED.

Defendant was remanded to the custody of the Sheriff.

  
CR02-0147  
STATE VS FERRILL  
District Court  
Washoe County  
DC-09900055303-036  
JOSEPH VOLPI 1 Page  
06/18/2003 02:16 PM  
MIN  
MTDPRC

CODE: 4185

**FILED**

JUN 18 2003

RONALD A. LONGTIN, JR., CLERK  
By: *[Signature]*  
DEPUTY

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0145

CR02-0146

CR02-0147

CR02-0148

Dept. No. 9

vs.

FERRILL JOSEPH VOLPICELLI,

Defendant.

TRANSCRIPT OF PROCEEDINGS

MOTION TO CONFIRM TRIAL  
STATUS HEARING

JUNE 12, 2003

RENO, NEVADA

Reported by: DONNA DAVIDSON, CCR #318, RMR, CRR  
Computer-Aided Transcription

DC-09900055260-054  
CR02-0147  
STATE VS FERRILL JOSEPH VOLP 8 Pages  
District Court 06/18/2003 03:00 PM  
Washoe County 4185  
MADDER

## A P P E A R A N C E S

For the Plaintiff:

CHERYL HIER-JOHNSON  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

For the Defendant:

JENNY D. HUBACH  
Attorney at Law  
360 West Liberty Street  
Reno, Nevada 89501

For the Division of Parole and Probation:

OFFICER TUCKER

1 RENO, NEVADA, THURSDAY, JUNE 12, 2003, 9:01 A.M.

2 --oOo--

3  
4 THE COURT: State versus Ferrill Volpicelli,  
5 CR02-0145, 02-146, 02-147 and 02-148.

6 On calendar for today is a motion to confirm the  
7 trial in 02-0145 for June 23rd. Are we going to proceed  
8 to trial in that matter?

9 MS. HUBACH: Your Honor, if I may, I believe we  
10 were also waiting for the psychological report to come  
11 back.

12 I have not yet seen that, nor has  
13 Ms. Hier-Johnson, so at this point I don't think we can  
14 confirm the trial. I would ask the matter be set over  
15 to next Wednesday, so we can try to determine where we  
16 are in that process.

17 Also, Mr. Volpicelli needs to put on the record  
18 the medications he's now on. It's my understanding he's  
19 taking additional medication now. State them for the  
20 record, please.

21 THE DEFENDANT: Well, in addition to the Prozac,  
22 I think it's probably doubled now since I initially  
23 started it, and they added another psychotropic, Geodon.

24 And about a week ago I had an accident at the

1 jail, so they put me on, for my pain, Ibuprofen,  
2 Flexeril, Naprosyn, Tylenol and Codeine.

3 THE COURT: Okay. We had set a hearing for  
4 tomorrow, but I moved these hearings up to today to  
5 discuss the status of the reports and evaluation.

6 Ms. Hier-Johnson, do you have any information  
7 about those or their progress?

8 MS. HIER-JOHNSON: Your Honor, I don't have any  
9 information about the evaluations, but I wanted to  
10 inform the Court that during the pretrial preparations  
11 for the pending cases of Mr. Volpicelli, in interviewing  
12 witnesses we discovered that there is an Allen search  
13 warrant issue in this case related to all the UPC code  
14 label type charges pending against Mr. Volpicelli.

15 Those are the subject of CR02-145 and 146. So,  
16 as a result of that discovery, I informed Mr. Alian that  
17 the issue existed; that we were restructuring the  
18 document and proceeding to grand jury for a Superseding  
19 Indictment.

20 The State obtained that Indictment yesterday.  
21 It was returned to Department 6.

22 Now, I did not have Judge Adams sign the order  
23 staying proceedings in 145 and 146 because we're so  
24 close to having an evaluation to determine whether or

1 not there's a competency issue, I didn't want to  
2 frustrate that effort, I wanted to get the competency  
3 determined because it would be helpful in going forward  
4 with the brand-new case.

5 So what the State is ultimately going to be  
6 seeking is a competency determination, a stay of  
7 proceedings in 145 and 146, and the State will go  
8 forward on the new charges and abandon the charges in  
9 145 and 146.

10 THE COURT: Okay. Well, I do think it  
11 worthwhile to have a status hearing next Wednesday on  
12 the reports. I also think that confirming trial in 145  
13 is inappropriate until those competency determinations  
14 have been made, so I'll order a competency evaluation in  
15 145 and vacate the trial for June 23rd until the  
16 competency has been determined, and I'll reset the trial  
17 date once competency has been determined.

18 In 146, if it is not already clear, the same  
19 order will be in effect; that is to say competency  
20 evaluation is to be made in 146 and the proceedings are  
21 stayed subject to the competency evaluation.

22 All four cases will be heard on the 18th for a  
23 status -- of June at 8:30 for a status report on  
24 competency evaluations.

1 MS. HUBACH: I will follow up with Lakes  
2 Crossing this morning, Your Honor, and find out what the  
3 hang-up is at this point.

4 THE COURT: Okay. I know written orders were  
5 signed in cases in which Mr. Volpicelli had waived a  
6 jury trial, but since there are four of these cases, I  
7 tend to lose track of them in connection with their  
8 numbers.

9 But I would request that written orders be  
10 prepared for the other cases consistent with the Court's  
11 direction today, if that hasn't already occurred. I  
12 don't think that has. I think we only issued written  
13 orders in the two cases that were going to trial.

14 MS. HUBACH: Correct, it was 145 and 146. And  
15 just for the record, I faxed that order upon receipt,  
16 also faxed all of the prior psychological information up  
17 to Lakes Crossing so we have all the documentation to  
18 look at.

19 THE COURT: All right. I don't think we have  
20 set trial dates then in all four cases, I think they are  
21 all vacated at this stage.

22 MS. HIER-JOHNSON: Your Honor, we have one trial  
23 pending, I don't recall the CR number, it is the  
24 indecent exposure case that is set for trial in this

1 department on July 10th. Mr. Kadlic is the conflict  
2 counsel in that case.

3 THE COURT: Okay. I want Mr. Kadlic here next  
4 Wednesday because I don't know whether we'll be  
5 proceeding on that case on that scheduled trial date,  
6 depending upon the competency questions that are  
7 involved.

8 All right. June 18th at 8:30. We'll see you  
9 then. Thank you.

10 MS. HUBACH: Thank you, Your Honor.

11 THE COURT: And I'll also, depending upon  
12 competency, consider arraignment on the Superseding  
13 Indictment at that time as well.

14 MS. HIER-JOHNSON: Go ahead and set that for  
15 next Wednesday, Your Honor.

16 THE COURT: Yes, please. Depending on -- and if  
17 Mr. Volpicelli is found competent, I'll proceed with the  
18 arraignment.

19 MS. HIER-JOHNSON: Okay.

20 MS. HUBACH: Thank you, Your Honor.

21 MS. HIER-JOHNSON: Thank you.

22 MS. RIGGS: Thank you.

23 (Proceedings concluded.)

24 --oOo--



1 STATE OF NEVADA )  
2 ) SS.  
3 COUNTY OF WASHOE )

4 I, DONNA DAVIDSON, Official Reporter of the  
5 Second Judicial District Court of the State of Nevada,  
6 in and for the County of Washoe, do hereby certify:

7 That as such reporter, I was present in  
8 Department No. 9 of the above court on said date, time  
9 and hour, and I then and there took verbatim stenotype  
10 notes of the proceedings had and testimony given  
11 therein.

12 That the foregoing transcript is a full, true  
13 and correct transcript of my said stenotype notes, so  
14 taken as aforesaid.

15 That the foregoing transcript was taken down  
16 under my direction and control, and to the best of my  
17 knowledge, skill and ability.

18 DATED: At Reno, Nevada, this 13th day of June,  
19 2003.

20  
21   
22 DONNA DAVIDSON, CCR #318  
23  
24

CODE: 4185

ORIGINAL FILED

JUN 23 2003

RONALD A. LONGIN, JR., CLERK  
By: Chapman  
DEPUTY

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0145

CR02-0146

CR02-0147 ✓

CR02-0148

Dept. No. 9

vs.

FERRILL JOSEPH VOLPICELLI,

Defendant.

TRANSCRIPT OF PROCEEDINGS

REPORT ON PSYCHIATRIC EVALUATION

JUNE 18, 2003

RENO, NEVADA

Reported by: DONNA DAVIDSON, CCR #318, RMR, CRR  
Computer-Aided Transcription

CR02-0147  
STATE VS FERRILL JOSEPH VOL  
District Court 21 Pages  
Washoe County 06/23/2003 02:38 PM  
4185  
MTADDEC

## A P P E A R A N C E S

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For the Division of Parole and Probation:

HEIDI POE

1 RENO, NEVADA, WEDNESDAY, JUNE 18, 2003, 10:05 A.M.

2 --oOo--

3  
4 THE COURT: State versus Ferrill Volpicelli,  
5 CR02-0145, 02-0146, 02-0147, and 02-0148 and 03-1263.

6 MS. RIGGS: Good morning, Your Honor, Tammy  
7 Riggs appearing on behalf of the State.

8 THE COURT: Ms. Poe is here for the Division.

9 Mr. Alian is here on behalf of Mr. Volpicelli in  
10 case 02-0145 an 02-0146.

11 MR. ALIAN: That's correct, Your Honor.

12 THE COURT: Mr. Kadlic, are you --

13 MR. KADLIC: I have just the one case which are  
14 the indecent exposures, lewdness, which I don't have the  
15 numbers.

16 THE COURT: That is 02-0147. And Mr. Van Ry?

17 MR. VAN RY: I believe I was on 02-0145, Your  
18 Honor.

19 THE COURT: Yes, Mr. Alian is on 02-0148.

20 Mr. Alian, do you have the Indictment case, as  
21 well, 03-1263?

22 MR. ALIAN: No, I do not, Your Honor. It's my  
23 understanding that the Indictment just came down, that  
24 the district attorney's office is going to be asking

1 then for a stay with respect to 02-0148 and with respect  
2 to Mr. Van Ry's case, as well, because apparently those  
3 are going to -- she's going to be asking for a stay of  
4 those because they take over with respect to the  
5 Indictment.

6 MS. RIGGS: Actually, Your Honor, we'll be  
7 asking for a stay in CR02-0145 and CR02-0146 after you  
8 determine whether this defendant is competent.

9 THE COURT: All right. The Court has reviewed  
10 and considered the reports supplied in this matter by  
11 Dr. Hiller and Dr. Henson. Do you have anything you  
12 wish to add to those reports, Mr. Alian?

13 MR. ALIAN: Your Honor, nothing really to add  
14 except to indicate that Dr. Henson suggests that perhaps  
15 in order to judge the serotonin levels in my client to  
16 see whether or not he's affected by being taken off the  
17 drug for a while would affect his ability, he suggests  
18 that a blind protocol be done at the center there, at  
19 the Lakes Crossing.

20 On behalf of my client, I would have to indicate  
21 to the Court that that may be a serious consideration in  
22 this case because one of the concerns I believe to the  
23 Court and to myself was the fact of whether or not my  
24 client had the ability at the time to waive his right to

1 a jury trial with respect to his cases, which he did in  
2 our case.

3 So based upon that, I simply raise that again  
4 and ask for the Court to make a determination.

5 THE COURT: Ms. Riggs, do you wish to be heard?

6 MS. RIGGS: Yes, Your Honor. The State would  
7 absolutely oppose that.

8 If you would go to page 11 of the competency  
9 evaluation, it would be the last page of Dr. Henson's  
10 assessment, this would be the second paragraph on the  
11 page, he concludes, "It is unlikely that such an  
12 assessment," the assessment that Mr. Alian speaks about,  
13 "effort would demonstrate significant cognitive function  
14 deficits related to the medication regimens. The  
15 client's symptoms reflect an emotional response to his  
16 untenable situation, facing severe long-term  
17 consequences arising from criminal conduct, if  
18 convicted, and personality characteristics represented  
19 by an obsession of unjust, but unsolvable entanglement  
20 with the criminal justice system."

21 In other words, Your Honor, Dr. Henson doesn't  
22 think that would have any conclusions that would result  
23 in this defendant being found incompetent.

24 Your Honor, the State believes that enough is

1 enough. This defendant has now been through two rounds  
2 of competency evaluations, all evaluators having found  
3 him competent.

4 The State is ready to go with these cases, Your  
5 Honor, his evaluators feel he is ready to go mentally,  
6 and we would oppose any further continuance based on any  
7 sort of mental incapability of this defendant. He's  
8 competent.

9 THE COURT: Anything further, Mr. Alian?

10 MR. ALIAN: No, Your Honor.

11 THE COURT: Mr. Kadlic or Mr. Van Ry, do you  
12 wish to comment? I asked that these evaluations apply  
13 to the cases on which you're representing  
14 Mr. Volpicelli.

15 MR. KADLIC: I'll stand by Mr. Alian's comments,  
16 Your Honor.

17 MR. VAN RY: Likewise, Your Honor.

18 THE COURT: All right. The Court finds that  
19 Mr. Volpicelli is competent to assist his counsel and to  
20 understand the nature of the charges against him. The  
21 Court does not believe that there is anything productive  
22 to be gained by the trial commented upon by counsel, and  
23 therefore the Court feels that that is not necessary.

24 With respect to the question of whether

1 Mr. Volpicelli was competent to -- at the time that he  
2 waived his jury trial in two of the cases, the Court is  
3 not satisfied really with the report's results on either  
4 one of those issues.

5 However, given the fact that the Court has  
6 determined that Mr. Volpicelli is competent, the Court  
7 will extend to Mr. Volpicelli and his counsel the  
8 opportunity now to seek a withdrawal of your request for  
9 a jury trial in those cases. Excuse me, a bench trial  
10 in those cases.

11 Therefore, Mr. Alian, you and your client will  
12 have the opportunity to withdraw your request for bench  
13 trial at this time.

14 MR. ALIAN: Your Honor, with respect to 02-0148,  
15 my client at this time would stand by his intention  
16 respectfully asking the Court for a trial before the  
17 Court only with respect to that case.

18 With respect to 02-0146, if the Court wants a  
19 determination now, that's fine, except it may become  
20 moot in light of the fact that the district attorney's  
21 office is seeking a stay, my understanding on 02-0146,  
22 because that's going to be incorporated in the  
23 Indictment.

24 THE COURT: Okay. Mr. Volpicelli, included in



1 the reports prepared by the doctors, and particularly  
2 Dr. Henson, have you reviewed that report?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: Okay. Dr. Henson comments in the  
5 report at least three times that I recall that in  
6 addition to having concerns about the legal predicament  
7 you find yourself in, you have concerns about the  
8 fairness of the presiding judge in your cases.

9 This comment seems inconsistent to the Court by  
10 one who would ask that your case be resolved through a  
11 bench trial. I think you should explain or at least  
12 comment or your counsel should comment on that  
13 inconsistency.

14 I want to make absolutely certain that today  
15 you're in agreement to waive a jury trial in those  
16 cases, especially where you have expressed to this  
17 evaluator the fact that because I have previously  
18 revoked you and acted in prior cases that you do not  
19 believe that this judge may be fair and that you can get  
20 a fair hearing in front of this judge.

21 THE DEFENDANT: Your Honor, I did have a  
22 concern. I was just made aware a couple weeks ago of  
23 the amount of testimony that my codefendant gave when he  
24 was convicted, and I just thought that that might be

1 prejudicial, and I thought that that might affect your  
2 decision with these new cases. But I know that you have  
3 expressed fairness regardless. So I'm somewhat torn  
4 between whether or not I should have you or a jury. I'm  
5 leaning towards you.

6 THE COURT: Well, there's no offense to the  
7 Court if you want to have a jury hear your case.

8 THE DEFENDANT: I understand. I know you want  
9 an explanation, Your Honor, and that's the best I could  
10 come up with. I'm just confused.

11 THE COURT: All right. All right. Then you are  
12 satisfied in having -- the prior waiver you have made to  
13 the jury trials in 0148 and 0146?

14 THE DEFENDANT: Yes.

15 THE COURT: All right. Do you have any  
16 questions of the Court about your prior decisions to  
17 waive the jury trial in those cases?

18 THE DEFENDANT: None on that matter, Your Honor.

19 THE COURT: Okay. All right. Are counsel ready  
20 to proceed on the Indictment in 03-1263?

21 MS. RIGGS: The State is prepared, Your Honor.

22 MR. ALIAN: Your Honor, it's my understanding,  
23 because of that, that Mr. Van Ry will be representing  
24 Mr. Volpicelli on the Indictment.

1 THE COURT: Is that right, Mr. Van Ry?

2 MR. VAN RY: That is correct. I have not yet  
3 received a copy of the Indictment, however.

4 THE COURT: All right. Well, we'll provide that  
5 to you this morning. But let me provide you with a copy  
6 of the Indictment.

7 MR. VAN RY: If I may approach, Your Honor?

8 THE COURT: Yes, sir. Is your client's name  
9 correctly identified and spelled in the Indictment; and  
10 do you wish to have it read?

11 MR. VAN RY: If I could have a moment, Your  
12 Honor.

13 THE COURT: Yes, sir.

14 MR. VAN RY: Your Honor, my client and I have  
15 received a copy of the Indictment, case number  
16 CR03-1263. My client indicates that his name is  
17 correctly spelled on line 12 of the Indictment. We are  
18 familiar with its contents and would waive its formal  
19 reading at this time.

20 THE COURT: Okay. What is your plea to the  
21 charge in the Indictment, Mr. Volpicelli?

22 THE DEFENDANT: Not guilty, Your Honor.

23 THE COURT: You have the right to a jury trial  
24 on the Indictment to be conducted within 60 days of

1 today. Do you wish to exercise that right?

2 THE DEFENDANT: Your Honor, I'd like some time  
3 to investigate this, to be honest with you.

4 THE COURT: So do you waive your right to a jury  
5 trial within 60 days on that case?

6 THE DEFENDANT: I'm going to need more than 60  
7 days to prepare for this, Your Honor.

8 THE COURT: So I need an answer to my question.

9 THE DEFENDANT: I will waive it then. I will  
10 waive it, Your Honor.

11 THE COURT: Okay. Length of trial, counsel?

12 MS. RIGGS: Your Honor, the State anticipates  
13 approximately four days to present this case.

14 THE COURT: Mr. Van Ry?

15 MR. VAN RY: That sounds accurate, Your Honor.

16 THE COURT: All right. Ms. Riggs, do you wish  
17 to be heard on cases 0145, 6, 7 and 8?

18 MS. RIGGS: Your Honor, regarding 0148 and 0147,  
19 the State is prepared to proceed on those cases, and we  
20 would just ask that you set the trial date today.

21 THE COURT: Okay. And with respect to 145 and  
22 146?

23 MS. RIGGS: Your Honor, we will be asking you to  
24 stay those proceedings, if I may approach.

1 THE COURT: All right.

2 MS. RIGGS: Your Honor, State is handing you the  
3 proposed order staying the proceedings in those two  
4 cases. Thank you.

5 THE COURT: Is there any objection, counsel?

6 MR. VAN RY: No objection, Your Honor.

7 MR. ALIAN: Your Honor, no. I don't believe  
8 I've gotten a copy of that.

9 THE COURT: Oh, well, here it is. Why don't you  
10 take a look at it.

11 MR. ALIAN: Thank you, Your Honor.

12 THE COURT: All right. The length of trial in  
13 147?

14 MS. RIGGS: Your Honor, the State anticipates  
15 two days on 0147; also two days on 0148.

16 MR. KADLIC:: Your Honor, 147 is my case,  
17 correct?

18 THE COURT: Yes, sir.

19 MR. KADLIC: I don't see how that's going to  
20 take two days. Further, I think that -- if any case  
21 deserves to be tried in front of a judge, that's the  
22 one. It's the one of open and gross lewdness and  
23 indecent exposure, correct?

24 MS. RIGGS: That's true, Your Honor; however,

1 the State will not waive its right to jury trial on that  
2 case.

3 THE COURT: Okay.

4 MR. KADLIC: If that's the case, Your Honor,  
5 then I need -- we had it originally set for what we  
6 anticipate was going to be a judge trial. That's going  
7 to have to be set way out after the first of the year  
8 because I literally have trials scheduled every month it  
9 seems like two abreast from now until the end of the  
10 year. My calendar is just -- unfortunately everybody  
11 that I have drawn off my conflict list is deciding to go  
12 to trial.

13 The Court knows I've been in three jury trials  
14 in the last two months. So I'm basically going to have  
15 to go way out.

16 THE COURT: All right. Have you discussed that  
17 with Mr. Volpicelli?

18 MR. KADLIC: Yes. You would agree,  
19 Mr. Volpicelli, to waive any 60-day speedy trial, right?

20 THE DEFENDANT: Yes, I agree to waive that, Your  
21 Honor.

22 THE COURT: Okay. In 148, that case is a bench  
23 trial.

24 MR. ALIAN: Your Honor, if I may be heard. It

1 was my understanding in talking to co-counsel I believe  
2 last week in this case not this counsel for the State  
3 but the co-counsel, that depending upon what happens in  
4 the Indictment case it may affect the outcome of case in  
5 02-0148. It may not go. I don't know. Based upon  
6 that, I would respectfully ask if we set this matter at  
7 least after the Indictment case.

8 MS. RIGGS: The State has no objection to  
9 setting this matter after the Indictment case; however,  
10 Your Honor, this case is not going to be dismissed by  
11 the State regardless of the outcome of any of the other  
12 cases.

13 If this defendant wishes to plead after our  
14 anticipated conviction of him in the other cases, that's  
15 fine, but we have no objection to that being set out  
16 later.

17 MR. VAN RY: For your information, Your Honor, I  
18 would prefer Octoberish for my CR03-1263.

19 THE COURT: How about October 6th, Mr. Van Ry?

20 MR. VAN RY: That would be great, Your Honor.

21 THE COURT: Ms. Riggs?

22 MS. RIGGS: That's fine with the State, Your  
23 Honor.

24 THE COURT: All right. October 6th at 8:30.

1 The motion to confirm will be held on September 24th at  
2 8:30.

3 Case number 0148 will be set for trial, let's  
4 see, is that two days approximately; is that correct?

5 MS. RIGGS: That's correct, Your Honor.

6 THE COURT: All right. That case will be set  
7 for October the 27th -- excuse me, 29th, at ten a.m.

8 MR. ALIAN: Your Honor, would the Court  
9 consider -- excuse me. The 29th?

10 THE COURT: Yes, sir.

11 MR. ALIAN: I just wanted the Court to note  
12 hopefully there's supposedly I have a two-week murder  
13 case beginning October 13th. Hopefully I should finish  
14 it before then. I just wanted the Court to know that in  
15 case it goes over.

16 THE COURT: All right. Does that give you  
17 enough time to prepare?

18 MR. ALIAN: Your Honor, I was going to  
19 respectfully ask the Court, to be honest, for the week  
20 of say November 19th, Wednesday. Because the week  
21 before that, I have another three-day jury trial which  
22 will go.

23 THE COURT: Well, is November the 20th okay?

24 MR. ALIAN: That's fine, Your Honor.



1 THE COURT: All right. 8:30 November 20th, with  
2 a motion to confirm on November the 5th, at 8:30.

3 MR. ALIAN: Thank you, Your Honor.

4 THE COURT: And the trial in the other case,  
5 0147, are you available in December?

6 MR. KADLIC: I was looking at December 22nd,  
7 Your Honor, Christmas week. Always good to try cases  
8 during Christmas week.

9 MS. RIGGS: Your Honor, may we approach?

10 (Off-the-record discussion held at the bench.)

11 THE COURT: All right. December 22nd at 8:30  
12 for two days, with a motion to confirm on December the  
13 10th at 8:30.

14 Have you had an opportunity to look at the  
15 proposed order staying proceedings?

16 MR. ALIAN: Your Honor, I did. I don't have any  
17 objection to that.

18 THE COURT: All right. The Court will enter the  
19 order staying proceedings in CR02-0145 and 02-0146 in  
20 the form proposed by the DA's Office.

21 MS. RIGGS: Thank you, Your Honor.

22 MR. ALIAN: Your Honor, I should indicate I only  
23 have one of those two cases. Mr. Van Ry has the other.

24 THE COURT: Mr. Van Ry, any objection?

1 MR. VAN RY: No objection, Your Honor.

2 MR. KADLIC: Your Honor, as to 147, originally  
3 we had a motion to confirm on the 25th of June and a  
4 trial date of the 10th of July. We were anticipating  
5 that we were going to try it in front of you, and so I  
6 guess I assume we can vacate those in light of all of  
7 the other proceedings?

8 MS. RIGGS: No objection, Your Honor.

9 THE COURT: Well, we could proceed to trial on  
10 those dates.

11 MR. KADLIC: Well, he wanted to do the jury --  
12 they wanted to do -- they are the ones who want the jury  
13 trial. If we can try it in front of you, Your Honor, I  
14 would be happy to go that date. That was anticipated we  
15 were going to have a judge trial, that's why we set it  
16 on a Thursday because --

17 THE COURT: Well, no, I do jury trials on a  
18 Thursday.

19 MR. KADLIC: Well, at this point now, because of  
20 all of this mess came up, I kind of rescheduled other  
21 things in the interim anticipating that we weren't going  
22 to go on this thing. This was sort of almost like a  
23 dominos. Everything was contingent on one domino  
24 falling and then the next one and the next one, except

1 the dominos keep getting set back up. I would just as  
2 well do the December 22nd at this point, Your Honor.

3 MS. RIGGS: State can go on either date, Your  
4 Honor. We'll leave it to your discretion.

5 THE COURT: Well, frankly Ms. Riggs had a  
6 conflict in December which was going to require State's  
7 counsel to get either her co-counsel or another lawyer  
8 to go on December 22nd. The trial for July 10th is set  
9 to go. It's on our calendar.

10 MR. KADLIC: Okay. That's fine. I mean I'll  
11 just as well go and do it and get it over with.

12 THE COURT: July 10th at 8:30.

13 MR. KADLIC: That's fine.

14 THE COURT: Okay.

15 MR. KADLIC: So do we really need to do the  
16 motion to confirm?

17 THE COURT: No, we don't.

18 MR. KADLIC: Okay. Then let's go on July 10th.  
19 That's fine.

20 THE COURT: You're confirmed for July 10th at  
21 8:30. Case 02-0147 will proceed to trial at 8:30 on  
22 July 10th. We've conducted the motion to confirm.

23 MR. VAN RY: Your Honor, I had one final issue  
24 with regard to CR03-1263 that discovery, as we

1 understand it, is to begin anew, and there are some  
2 particular items that we have not received that my  
3 client has submitted an inmate request form concerning  
4 search warrants, inventory receipts, property records,  
5 documents, files, receipts, cash and other financial  
6 instruments that arose out of the prosecution of this  
7 matter that we have not yet received.

8 THE COURT: Well, I want a reciprocal discovery  
9 agreement signed in that case within the next week.

10 MR. VAN RY: Okay.

11 THE COURT: Provide a copy of that list to  
12 Ms. Riggs and ask her to review that, and you discuss  
13 that with her. If there are any issues or difficulties  
14 with respect to the subject of discovery, then put it on  
15 calendar, and we'll resolve those disputes.

16 THE DEFENDANT: Thank you, Your Honor.

17 MR. VAN RY: Thank you, Your Honor.

18 MS. RIGGS: Thank you, Your Honor.

19 THE COURT: Okay. Anything further, then?

20 MS. RIGGS: No, Your Honor.

21 MR. ALIAN: No, Your Honor.

22 MR. KADLIC: No, Your Honor.

23 MR. VAN RY: No, Your Honor.

24 THE COURT: All right. Thank you very much.

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(Proceedings concluded.)

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1 STATE OF NEVADA )  
2 ) ss.  
3 COUNTY OF WASHOE )

4 I, DONNA DAVIDSON, Official Reporter of the  
5 Second Judicial District Court of the State of Nevada,  
6 in and for the County of Washoe, do hereby certify:

7 That as such reporter, I was present in  
8 Department No. 9 of the above court on said date, time  
9 and hour, and I then and there took verbatim stenotype  
10 notes of the proceedings had and testimony given  
11 therein.

12 That the foregoing transcript is a full, true  
13 and correct transcript of my said stenotype notes, so  
14 taken as aforesaid.

15 That the foregoing transcript was taken down  
16 under my direction and control, and to the best of my  
17 knowledge, skill and ability.

18 DATED: At Reno, Nevada, this 20th day of June,  
19 2003.

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22   
23 DONNA DAVIDSON, CCR #318  
24

DA #213980

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#001510

P.O. Box 30083

Reno, NV 89520-3083

(775) 328-3200

Attorney for Plaintiff

FILED

2003 JUL -7 AM 11:13

RONALD A. LONGSTIN, JR.

BY DEPUTY

ORIGINAL

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

Defendant.

REQUEST, AGREEMENT AND ORDER FOR PRE-TRIAL RECIPROCAL DISCOVERY

**DEFENDANT'S REQUEST FOR DISCOVERY**

Pursuant to NRS 174.235 to 174.295, inclusive, the defendant requests all written or recorded statements or confessions made by the defendant, any written or recorded statements made by a witness or witnesses the State intends to call in its case-in-chief, or any reports of statements or confessions, or copies thereof, results or reports of physical or mental examinations, scientific tests or scientific experiments, or copies thereof, that are within the possession, custody or control of the State, the existence which is known, or with the exercise of due diligence may become known to the prosecuting

1 attorney; and books, papers, documents or tangible objects that  
2 the State intends to introduce in its case-in-chief and which is  
3 in the possession, custody or control of the State, the existence  
4 which is known, or with the exercise of due diligence may become  
5 known to the prosecuting attorney.

6 **STATE'S REQUEST FOR DISCOVERY**

7 Pursuant to NRS 174.087, 174.089, 174.235 to 174.295,  
8 inclusive, the State requests any written or recorded statements  
9 made by a witness or witnesses the defendant intends to call in  
10 his or her case-in-chief, or copies thereof, results or reports  
11 of physical or mental examinations, scientific tests or  
12 scientific experiments, or copies thereof, that are within the  
13 possession, custody or control of the defendant, the existence  
14 which is known, or with the exercise of due diligence may become  
15 known to the defendant; and books, papers, documents or tangible  
16 objects that the defendant intends to introduce in his or her  
17 case-in-chief and which is in the possession, custody or control  
18 of the defendant, the existence which is known, or with the  
19 exercise of due diligence may become known to the defendant.

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AGREEMENT TO RECIPROCAL DISCOVERY

The parties hereby agree that they will comply with the requirements of NRS 174.087, 174.089, 174.235 to 174.295, inclusive.

RICHARD A. GAMMICK  
District Attorney  
Washoe County, Nevada

By [Signature]  
Deputy District Attorney

6/26/03  
Date

[Signature]  
Defense Attorney

July 1, 2003  
Date



Retained



Court Appointed



Public Defender

ORDER

PURSUANT TO NRS 174.087, 174.089, and 174.235 to 174.295 inclusive and good cause appearing therefore,

IT IS HEREBY ORDERED that discovery be provided in accordance with the within requests and agreement.

DATED this 1 day of July, 2003.

[Signature]  
DISTRICT JUDGE

DA # 213988

FILED

Team Kay

2003 JUL -9 PM 4: 30

RONALD A. LONGTIN, JR.

BY DEPUTY

CODE 3839

Richard A. Gammick

#001510

P.O. Box 30083

Reno, NV 89520-3083

(775) 328-3200

Attorney for Plaintiff

ORIGINAL

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147Ferrill Joseph VolpellerDept. No. 09

Defendant.

REQUEST, AGREEMENT AND ORDER FOR PRE-TRIAL RECIPROCAL DISCOVERYDEFENDANT'S REQUEST FOR DISCOVERY

Pursuant to NRS 174.087, 174.089, 174.235 to 174.295, inclusive, the defendant requests all written or recorded statements or confessions made by the defendant, any written or recorded statements made by a witness or witnesses the State intends to call in its case-in-chief, or any reports of statements or confessions, or copies thereof, results or reports of physical or mental examinations, scientific tests or scientific experiments, or copies thereof, that are within the possession, custody or control of the State, the existence which is known, or with the exercise of due diligence may become known

CR02-0147  
STATE VS FERRILL  
DISTRICT COURT  
Washoe County  
DC-09900005260-051  
JOSEPH VOLP 3 Pages  
07/09/2003 10:56 AM  
3839  
Printer

1 to the prosecuting attorney; and books, papers, documents or  
2 tangible objects that the State intends to introduce in its case-  
3 in-chief and which is in the possession, custody or control of  
4 the State, the existence which is known, or with the exercise of  
5 due diligence may become known to the prosecuting attorney.

6 STATE'S REQUEST FOR DISCOVERY

7 Pursuant to NRS 174.087, 174.089, 174.235 to 174.295,  
8 inclusive, the State requests any written or recorded statements  
9 made by a witness or witnesses the defendant intends to call in  
10 his or her case-in-chief, or copies thereof, results or reports  
11 of physical or mental examinations, scientific tests or  
12 scientific experiments, or copies thereof, that are within the  
13 possession, custody or control of the defendant, the existence  
14 which is known, or with the exercise of due diligence may become  
15 known to the defendant; and books, papers, documents or tangible  
16 objects that the defendant intends to introduce in his or her  
17 case-in-chief and which is in the possession, custody or control  
18 of the defendant, the existence which is known, or with the  
19 exercise of due diligence may become known to the defendant.

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AGREEMENT TO RECIPROCAL DISCOVERY

The parties hereby agree that they will comply with the requirements of NRS 174.087, 174.089, 174.235 to 174.295, inclusive.

RICHARD A. GAMMICK  
District Attorney  
Washoe County, Nevada

By *Amir M. Y. Gaj*  
Deputy District Attorney

7/2/03  
Date

*James W. Shuckley* 6/26/03  
Defense Attorney Date

☐ Retained ☒ Court Appointed ☐ Public Defender

ORDER

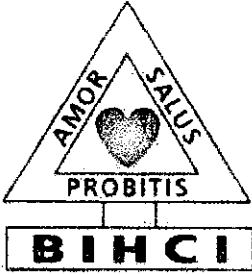
PURSUANT TO NRS 174.087, 174.089, and 174.235 to 174.295 inclusive and good cause appearing therefore,

IT IS HEREBY ORDERED that discovery be provided in accordance with the within requests and agreement.

DATED this 9 day of July, 2003.

*James W. Shuckley*  
DISTRICT JUDGE

CR02-0147 DC-09900055260-060  
 STATE VS FERRILL JOSEPH VOLPI 1 Page  
 District Court 07/10/2003 09:02 AM  
 Washoe County 1930  
 nnc MT00DEC



Corazon I. Ibarra, MD, HMD  
 BIO INTEGRATIVE HEALTH CENTER INTERNATIONAL  
 6490 S. McCARRAN BLVD., SUITE D-41  
 RENO, NV 89509  
 TEL: (775) 827-6696

FILED  
 7-10-03  
 RONALD A. LONGTIN, JR., Clerk  
 By S. Satter Deputy Clerk

Jury Commissioner  
 Second Judicial District Court  
 P.O.Box 30083  
 Reno, NV. 89520-3083

July 9, 2003

To Whom It May Concern:

Imelda Millare R.N. is head nurse of our small homeopathic infusion center. Kim Reynolds R.N. is recovering from surgery and is at this moment having an MRI. We have two part time nurses and 25 patients who desperately need us. Since we are a homeopathic clinic we cannot bring in just any nurse, as the training is highly specific. Therefore hiring a per diem nurse is not possible. If there is any way possible that Nurse Millare can be excused it would be greatly appreciated; as it will cause undue hardship on not only us, but our patients.

Thanking you in advance.

Yours,

*S. C. Case*

Suzanne C. Case M.D., Ph.D.  
 CFO Bio Integrative Health Center International

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

07/10/03  
HONORABLE  
JAMES W.  
HARDESTY  
DEPT. NO. 9  
S. Sattler  
(Clerk)  
D. Davidson

JURY TRIAL

Deputy D.A. Tammy Riggs represented the State.

Defendant was present with counsel, John J. Kadlic.

Prior to the prospective jurors being present the Court held a hearing to address pretrial matters.

Counsel for State addressed the Court and requested the following jurors be excused:

Debra Bartgis, Xan Harris and Rafaela Villareal.

Counsel for Defendant responded and so concurred; COURT ORDERED: Debra Bartgis, Xan Harris and Rafaela Villareal are hereby excused as prospective jurors in this case and the court clerk was directed to notify the Jury Commissioner.

Counsel for State indicated that State's exhibits 1 through 7 had been marked for identification and stipulated into admission and further stated there was a stipulation with defense counsel to allow witnesses to write on State's exhibit 1 and 4 as they testified; no objection by counsel for Defendant; Court so noted.

COURT ORDERED: State's exhibits 1 through 7 are hereby admitted.

Counsel for Defendant addressed the Court and indicated he wanted to make sure that the clerk had redacted the Information to be read and the priors stricken, that there was no mention of the Defendant being a R.O.P. target and further that there was no reference to the Defendant's prior criminal history; response by counsel for State; COURT ORDERED: As to the Information being redacted Court indicated said issue was granted and noted that he always directs the court clerk to confer with counsel regarding the Information to be read. As to the R.O.P. matter, Court granted counsel's request and directed that there be no R.O.P. reference and further, Court ordered that there be no reference to the Defendant's prior criminal history.

Prospective jurors were present.

Introductions of Court, counsel, Court personnel and respective parties were made to the prospective jurors.

Upon direction of the Court, the court clerk read the Amended Information, which was filed in this case and stated the Defendant's plea thereto.

The clerk called the roll of the prospective jurors.

CR02-0147  
STATE VS FERRILL JOSEPH VOLPI  
District Court  
Washoe County  
DC-05900055303-035  
07/10/2003 02:11 PM  
MTADDEC

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

## APPEARANCES-HEARING

07/10/03  
HON. JAMES W.  
HARDESTY  
DEPT. NO. 9  
S. Sattler  
(Clerk)  
D. Davidson  
(Reporter)

**JURY TRIAL - CONTINUED**

All prospective jurors were sworn to answer questions touching upon their qualifications to serve as jurors in this case. General and specific examination was had of the prospective jurors in the box. Following peremptory challenges, the following twelve (12) jurors and one (1) alternate were sworn to try this case:

- |                    |                        |
|--------------------|------------------------|
| 1. Janice Bowman   | 7. Lisa Jonkey         |
| 2. Carolyn Duemke  | 8. Maria Ybarra        |
| 3. Rebecca Laslo   | 9. Susan Hunter        |
| 4. Karen Ellison   | 10. Christopher Pruett |
| 5. Heather Porter  | 11. Mary Gore          |
| 6. Joseph Lipinski | 12. Melchor Cabanilla  |

Alternate: Carol Huffer

The Court admonished the jurors prior to each recess and respective counsel stipulated to their presence each time the Court reconvened.

**Adam Wagnanski** was called by counsel for State, sworn, testified and cross-examined by counsel for Defendant.

**Patricia Allen** was called by counsel for State, sworn, testified and cross-examined by counsel for Defendant. The witness identified the Defendant.

**Reed Thomas** was called by counsel for State, sworn, testified and cross-examined by counsel for Defendant.

**Brian Phay** was called by counsel for State, sworn and testified. The witness identified the Defendant.

The following exhibit was marked for identification:

**State's Exhibit 8**

Counsel for Defendant had no objection to the admission of this exhibit, however, noted he was not stipulating to the contents of said exhibit until it was displayed; COURT ORDERED: **State's exhibit 8** is hereby admitted.

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

07/10/03

HON. JAMES W.

HARDESTY

DEPT. NO. 9

S. Sattler

(Clerk)

D. Davidson

(Reporter)

**JURY TRIAL - CONTINUED**

Counsel for State indicated she would be admitting the contents of exhibit 8 at a later time.

The jury was excused for the lunch recess until 2:00 p.m.

Court met with respective counsel to discuss the jury instructions.

Counsel for Defendant provided the Court with two (2) additional instructions.

Counsel for State had no objection to the first instruction, however, objected to the second instruction regarding the Defendant not testifying and made statements thereto.

Court canvassed the Defendant pursuant to **State v. Phillips** as to his right to testify on his own behalf; to which the Defendant responded thereto.

Court reconvened and the jury was present.

**Suzanne Harmon** was called by counsel for State, sworn, testified and cross-examined by counsel for Defendant.

The following exhibit was ordered admitted:

**State's exhibit 8.A**

Counsel for State requested that since this exhibit was a biohazard material, it remain with the court clerk during the jury's deliberation and available for viewing; no objection by counsel for Defendant; SO ORDERED.

**Lori Inman** was called by counsel for State, sworn and testified. The witness identified the Defendant.

**State rested.**

Counsel for Defendant indicated he was not going to present an opening statement at this time and further stated he had no witnesses to call.

**Defense rested.**

The jury was excused.

Outside the presence of the jury Court met with respective parties for the purpose of settling jury instructions.

Counsel for Defendant addressed the Court and moved to dismiss on Counts I and II, the second location and further presented argument; counsel for State responded and objected thereto.



CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

07/10/03  
HON. JAMES W.  
HARDESTY  
DEPT. NO. 9  
S. Sattler  
(Clerk)  
D. Davidson  
(Reporter)

**JURY TRIAL - CONTINUED**

COURT ORDERED: Defense motion granted. Court indicated he would be giving an advisory instruction regarding said issue. Court directed counsel for Defendant to prepare the advisory instruction and indicated the State had failed to prove beyond a reasonable doubt the charge as it related to the 5150 Mae Anne address.

Court indicated he would confer with counsel on the subject of the instruction regarding the Defendant not testifying on his own behalf and the advisory instruction regarding the events surrounding the location of 10500 N. McCarran Blvd (Court previously stated in error the address to be 5150 Mae Anne). Court noted both parties stipulated to the withdrawal of the incident at N. McCarran Blvd. on both counts.

Counsel for State responded and withdrew the "27<sup>th</sup>" incident date. Court amended the Amended Information as to Counts I and II and struck the 10500 N. McCarran Blvd incident and noted the State was proceeding with the September 25<sup>th</sup>, 2001 offense on both counts.

Jury Instructions #1 through #26 were offered.

Court inquired if the Amended Information would be amended; counsel for State responded and so concurred.

Neither counsel had any objection to the Jury Instructions.

Neither counsel had additional instructions to proffer.

Court stood in recess.

Court reconvened and read Jury Instructions #1 through #26 aloud to the jury.

Closing arguments were presented by respective counsel.

At 4:30 p.m. the bailiff was sworn to take charge of the jury during their deliberations. Respective counsel stipulated to the alternate juror being excused subject to recall.

Outside the presence of the jury Court indicated he was aware counsel was stipulating to the withdrawal of exhibits 4, 5, 7, 8 and 8.A.; respective counsel so concurred; SO ORDERED.

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

07/10/03  
HON. JAMES W.  
HARDESTY  
DEPT. NO. 9  
S. Sattler  
(Clerk)  
D. Davidson  
(Reporter)

JURY TRIAL - CONTINUED

Court further addressed the two (2) additional instructions.  
The exhibits and Jury Instructions were delivered to the jury.  
At 5:30 p.m. the jury returned a verdict.  
The following verdicts were read by the clerk:

VERDICT

We, the jury in the above-entitled matter, find the defendant,  
FERRILL JOSEPH VOLPICELLI, GUILTY of COUNT I.  
INDECENT EXPOSURE.

DATED this 10 day of July, 2003.

/s/ Chris Pruett  
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the defendant,  
FERRILL JOSEPH VOLPICELLI, GUILTY of COUNT II.  
OPEN OR GROSS LEWDNESS.

DATED this 10 day of July, 2003.

/s/ Chris Pruett  
FOREPERSON

CASE NO. CR02-0147

STATE OF NEVADA VS. FERRILL JOSEPH VOLPICELLI

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

---

07/10/03  
HON. JAMES W.  
HARDESTY  
DEPT. NO. 9  
S. Sattler  
(Clerk)  
D. Davidson  
(Reporter)

**JURY TRIAL - CONTINUED**

COURT ORDERED: Matter continued for entry of judgment and imposition of sentence on Friday December 5, 2003 at 8:30 a.m.  
The jurors were thanked and excused.  
The Defendant addressed the Court regarding bail. Court indicated he would not respond orally to said issue and directed counsel Kadlic to prepare a motion. Counsel Kadlic indicated said motion had to come from either counsel Alian or Van Ry.  
Defendant remanded to the custody of the Sheriff.

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CR02-0147 DC-09500055389-037  
 STATE VS FERRILL JOSEPH VOLPI 1 Page  
 District Court 07/10/2003 02:11 PM  
 Washoe County  
 CR02  
 KTR/BJC

## EXHIBITS

PLTF: STATE OF NEVADA  
 DEFT: FERRILL JOSEPH VOLPICELLI

PATY: Tammy Riggs  
 DATY: John J. Kadlic

Case No: CR02-0147 Dept. No: 9 Clerk: S. Sattler Date: 07/09/03

Exhibit No.	Party	Description	Marked	Offered	Admitted
1	STATE'S	Safeway Parking Lot	07/09/03	STIP	07/10/03
2	STATE'S	Photograph of Ford Explorer #1	07/09/03	STIP	07/10/03
3	STATE'S	Photograph of Ford Explorer #2	07/09/03	STIP	07/10/03
4	STATE'S	Albertson's Parking Lot (WITHDRAWN- RETURNED TO THE STATE)	07/09/03	STIP	07/10/03
5	STATE'S	Photograph of Mazda MPV (WITHDRAWN - RETURNED TO THE STATE)	07/09/03	STIP	07/10/03
6	STATE'S	Explorer Registration	07/09/03	STIP	07/10/03
7	STATE'S	Medical Records (WITHDRAWN - RETURNED TO THE STATE)	07/09/03	STIP	07/10/03
8	STATE'S	Bag containing semen stained paper towel (WITHDRAWN - RETURNED TO RPD DETECTIVE)	07/10/03	NO OBJ	07/10/03
8.A	STATE'S	Semen stained paper towel (WITHDRAWN - RETURNED TO RPD DETECTIVE)	07/10/03	NO OBJ	07/10/03

ORIGINAL

CODE 4245

FILED

JUL 10 2003 5:30p.m.

RONALD A. LONGTIN, JR., CLERK

By: S. Satter  
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

Defendant.

VERDICT

We, the jury in the above-entitled matter, find the  
defendant, FERRILL JOSEPH VOLPICELLI, GUILTY of COUNT I. INDECENT  
EXPOSURE.

DATED this 10 day of July, 2003.

Chris Piretti  
FOREPERSON

ORIGINAL

FILED

JUL 10 2003 5:30 p.m.

RONALD A. LONGTIN, JR., CLERK  
By: S. Satter  
DEPUTY

1 CODE 4245

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5  
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
7 IN AND FOR THE COUNTY OF WASHOE.

8 \* \* \*

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR02-0147

12 FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

13 Defendant.  
14 \_\_\_\_\_/15 VERDICT

16 We, the jury in the above-entitled matter, find the  
17 defendant, FERRILL JOSEPH VOLPICELLI, GUILTY of COUNT II. OPEN OR  
18 GROSS LEWDNESS.

19 DATED this 10 day of July, 2003.

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21 Chris Pruitt  
22 FOREPERSON  
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ORIGINAL

DC-09900055260-049  
 JOSEPH VOL. 28, Page 5  
 STATE VS FERRILL  
 District Court  
 Washoe County  
 07/10/2003 06:21 PM  
 WTRBEC

FILED

7-10-03  
RONALD A. LONGTIN, JR., ClerkBy S. Satter  
Deputy Clerk

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
 IN AND FOR THE COUNTY OF WASHOE

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR02-0147

FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

Defendant.

LADIES AND GENTLEMEN OF THE JURY:

It is my duty as judge to instruct you in the law that  
 applies to this case, and it is your duty as jurors to follow the  
 law as I shall state it to you, regardless of what you may think  
 the law is or ought to be. On the other hand, it is your  
 exclusive province to determine the facts in the case, and to  
 consider and weigh the evidence for that purpose. The authority  
 thus vested in you is not an arbitrary power, but must be  
 exercised with sincere judgment, sound discretion, and in  
 accordance with the rules of law stated to you.

Instruction No. 1

1           An Amended Information is a formal method of accusing a  
2 defendant of a crime. It is not evidence of any kind against the  
3 accused, and does not create any presumption or permit any  
4 inference of guilt.  
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26 Instruction No. 2



1           The defendant in this matter, FERRILL JOSEPH  
2 VOLPICELLI, is being tried upon an Amended Information which was  
3 filed on the 21st day of February, 2003, and Amended further July  
4 10, 2003, in the Second Judicial District Court, charging the  
5 said defendant, FERRILL JOSEPH VOLPICELLI, with:

6           COUNT I. INDECENT EXPOSURE, a violation of NRS  
7 201.220, a felony, (F570) in the manner following:

8           That the said defendant on or about the 25th day of  
9 September A.D. 2001, and before the filing of the Information, at  
10 and within the County of Washoe, State of Nevada, did willfully  
11 and unlawfully on one or more occasions make an open and indecent  
12 or obscene exposure of his person to Detective PATRICIA BROWN  
13 and/or the public at large, in a public parking lot during  
14 daytime hours, located at 5150 Mae Anne Boulevard, Reno, County  
15 of Washoe, State of Nevada, in that the said defendant did  
16 masturbate inside a vehicle.

17           COUNT II. OPEN OR GROSS LEWDNESS, a violation of NRS  
18 201.210, a felony, (F755) in the manner following:

19           That the said defendant on or about the 25th day of  
20 September A.D. 2001, and before the filing of the Information, at  
21 and within the County of Washoe, State of Nevada, did willfully  
22 and unlawfully on one or more occasions commit an act of open or  
23 gross lewdness in a public parking lot during daytime hours,  
24 located at 5150 Mae Anne Boulevard, Reno, Washoe County, Nevada,  
25 in that the said defendant did masturbate inside a vehicle.

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1 To the charges stated in the Amended Information, the  
2 defendant, FERRILL JOSEPH VOLPICELLI, pled "NOT GUILTY."  
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26 Instruction No. 3

1           If in these instructions, any rule, direction or idea is  
2   stated in varying ways, no emphasis thereon is intended by me and  
3   none must be inferred by you. For that reason, you are not to  
4   single out any certain sentence, or any individual point or  
5   instruction, and ignore the others, but you are to consider all  
6   the instructions as a whole and to regard each in the light of  
7   all the others.

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26   Instruction No. 4

1           If, during this trial, I have said or done anything  
2 which has suggested to you that I am inclined to favor the  
3 position of either party, you will not be influenced by any such  
4 suggestion.

5           I have not expressed, nor intended to express, nor have  
6 I intended to intimate, any opinion as to which witnesses are or  
7 are not worthy of belief, what facts are or are not established,  
8 or what inference should be drawn from the evidence. If any  
9 expression of mine has seemed to indicate an opinion relating to  
10 any of these matters, I instruct you to disregard it.

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26 Instruction No. 5

1           Neither the prosecution nor the defense is required to  
2 call as witnesses all persons who may appear to have some  
3 knowledge of the matters in question in this trial.  
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26 Instruction No. 6

1           Nothing that counsel say during the trial is evidence  
2 in the case.

3           The evidence in a case consists of the testimony of the  
4 witnesses and all physical or documentary evidence which has been  
5 admitted.

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Instruction No. 7

1           It is the duty of attorneys on each side of a case to  
2 object when the other side offers testimony or other evidence  
3 which counsel believes is not admissible.

4           When the court has sustained an objection to a  
5 question, the jury is to disregard the question and may draw no  
6 inference from the wording of it or speculate as to what the  
7 witness would have said if permitted to answer.

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26 Instruction No. 8

1           To the jury alone belongs the duty of weighing the  
2 evidence and determining the credibility of the witnesses. The  
3 degree of credit due a witness should be determined by his or her  
4 character, conduct, manner upon the stand, fears, bias,  
5 impartiality, reasonableness or unreasonableness of the  
6 statements he or she makes, and the strength or weakness of his  
7 or her recollections, viewed in the light of all the other facts  
8 in evidence.

9           If the jury believes that any witness has willfully  
10 sworn falsely, they may disregard the whole of the evidence of  
11 any such witness.

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26 Instruction No. 9



1           There are two types of evidence from which a jury may  
2 properly arrive at a verdict. One is direct evidence, such as  
3 the testimony of an eyewitness. The other is circumstantial  
4 evidence, the proof of a chain of circumstances pointing to the  
5 commission of the offense.

6           The law makes no distinction between direct and  
7 circumstantial evidence, but requires that before convicting a  
8 defendant, the jury be satisfied of the defendant's guilt beyond  
9 a reasonable doubt from all the evidence in the case.

1 Intent may be proved by circumstantial evidence. While  
2 witnesses may see and hear and thus be able to give direct  
3 evidence of what a defendant does or fails to do, there can be no  
4 eyewitness account of a state of mind with which the acts were  
5 done or omitted, but what a defendant does or fails to do may  
6 indicate intent or lack of intent to commit the offense charged.

7 In determining the issue as to intent, the jury is  
8 entitled to consider any statements made and acts done or omitted  
9 by the accused, and all facts and circumstances in evidence which  
10 may aid determination of state of mind.

1           Every person charged with the commission of a crime  
2 shall be presumed innocent unless the contrary is proved by  
3 competent evidence beyond a reasonable doubt.  
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26 Instruction No. 12

1           In every crime there must exist a union or joint  
2 operation of act and intent.

3           The burden is always upon the prosecution to prove both  
4 act and intent beyond a reasonable doubt.

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26 Instruction No. 13

1           The burden rests upon the prosecution to establish  
2 every element of the crime with which the defendant is charged,  
3 and every element of the crime must be established beyond a  
4 reasonable doubt.  
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Instruction No. 14

1           A reasonable doubt is one based on reason. It is not  
2 mere possible doubt, but is such a doubt as would govern or  
3 control a person in the more weighty affairs of life. If the  
4 minds of the jurors, after the entire comparison and considera-  
5 tion of all the evidence, are in such a condition that they can  
6 say they feel an abiding conviction of the truth of the charge,  
7 there is not a reasonable doubt. Doubt to be reasonable, must be  
8 actual, not mere possibility or speculation.

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26 Instruction No. 15

1 As applicable to Count I, the elements of Indecent  
2 Exposure are that the defendant, FERRILL JOSEPH VOLPICELLI, did:

- 3 1. On or about the 25th day of September, 2001,
- 4 2. At and within the County of Washoe, State of  
5 Nevada;
- 6 3. In a public place; to wit, a public parking lot  
7 during daytime hours;
- 8 4. Make an open and indecent or obscene exposure of  
9 his person to PATRICIA BROWN ALLEN;
- 10 5. In that the defendant did masturbate inside a  
11 vehicle.

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26 Instruction No. 16

1 As applicable to Count II, the elements of Open or  
2 Gross Lewdness are that the defendant, FERRILL JOSEPH VOLPICELLI,  
3 did:

- 4 1. On or about the 25th day of September, 2001,
- 5 2. At or within the County of Washoe, State of Nevada;
- 6 3. In a public place; to wit, a public parking lot  
7 during daytime hours;
- 8 4. Commit an act of lewdness.
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26 Instruction No. 17



1 A lewd act is defined as the "unlawful indulgence of  
2 lust involving gross indecency with respect to sexual conduct."  
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26 Instruction No. 18

1           In order for conduct to be indecent or obscene, it must  
2   affront the standards of decency accepted in the community and be  
3   patently offensive.

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26   Instruction No. 19

1           An exposure becomes indecent when it occurs at such a  
2 time and place where a reasonable person knows or should know his  
3 or her act will be open to the observation of others. The  
4 required criminal intent is usually established by some action by  
5 which a defendant draws attention to his exposed condition or by  
6 a display in a place so public that it must be presumed it was  
7 intended to be seen by others.

1           The rules of evidence ordinarily do not permit the  
2 opinion of a witness to be received as evidence. An exception to  
3 this rule exists in the case of expert witnesses. A person who,  
4 by education, study and experience, has become an expert in any  
5 act, science or profession, and who is called as a witness, may  
6 give his or her opinion as to any such matter in which he or she  
7 is versed and which is material to the case. You should consider  
8 such expert opinion and should weigh the reasons, if any, given  
9 for it. You are not bound, however, by such an opinion. Give it  
10 the weight to which you deem it entitled, whether that be great  
11 or slight, and you may reject it if, in your judgment, the  
12 reasons given for it are unsound.

1           The penalty provided by law for the offense charged is  
2 not to be considered by the jury in arriving at a verdict.  
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26 Instruction No. 22

1           It is a constitutional right that a defendant in a criminal trial may not be compelled to  
2 testify. Thus, the decision as to whether he should testify is left to the defendant on the advice and  
3 counsel of his attorney. You must not draw any inference from the fact that he does not testify, nor  
4 should that fact be discussed by you or enter into your deliberations in any way.

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28 Instruction No. 23

1 A separate crime is charged in each count. You must decide each count separately.  
2 Your verdict on one count should not control your verdict on any other count.

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Instruction No. 24

1           It is your duty as jurors to consult with one another  
2 and to deliberate, with a view of reaching an agreement, if you  
3 can do so without violence to your individual judgment. You each  
4 must decide the case for yourself, but should do so only after a  
5 consideration of the case with your fellow jurors, and you should  
6 not hesitate to change an opinion when convinced that it is  
7 erroneous. However, you should not be influenced to vote in any  
8 way on any question submitted to you by the single fact that a  
9 majority of the jurors, or any of them, favor such a decision.  
10 In other words, you should not surrender your honest convictions  
11 concerning the effect or weight of evidence for the mere purpose  
12 of returning a verdict or solely because of the opinion of the  
13 other jurors.

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26 Instruction No. 25



1           Although you are to consider only the evidence in the  
2 case in reaching a verdict, you must bring to the consideration  
3 of the evidence your everyday common sense and judgment as  
4 reasonable men and women. Thus, you are not limited solely to  
5 what you see and hear as the witnesses testify. You may draw  
6 reasonable inferences which you feel are justified by the  
7 evidence, keeping in mind that such inferences should not be  
8 based on speculation or guess.

9           A verdict may never be influenced by sympathy, passion,  
10 prejudice, or public opinion. Your decision should be the  
11 product of sincere judgment and sound discretion in accordance  
12 with these rules of law.

4           When all twelve (12) of you have agreed upon a verdict,  
5 the foreperson should sign and date the same and request the  
6 Bailiff to return you to court.

James W. Hurd  
DISTRICT JUDGE

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Instruction No.

ORIGINAL

FILED

JUL 10 2003

RONALD A. LONGTIN, JR., CLERK

By: S. Satter  
DEPUTY

CODE 4245

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

FERRILL JOSEPH VOLPICELLI,

Defendant.

Case No. CR02-0147

Dept. No. 9

VERDICT

We, the jury in the above-entitled matter, find the  
defendant, FERRILL JOSEPH VOLPICELLI, NOT GUILTY of COUNT I.  
INDECENT EXPOSURE.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
FOREPERSON

ORIGINAL

FILED

JUL 10 2003

RONALD A. LONGTIN, JR., CLERK

By: S. Satter  
DEPUTY

1 CODE 4245

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
7  
8 IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR02-0147

12 FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

13 Defendant.  
1415 VERDICT

16 We, the jury in the above-entitled matter, find the  
17 defendant, FERRILL JOSEPH VOLPICELLI, NOT GUILTY of COUNT II.  
18 OPEN OR GROSS LEWDNESS.  
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20 DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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22 FOREPERSON  
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Volpicelli, Ferrill - 60076  
 Washoe County Detention Ctr.  
 911 Parr Blvd.  
 Reno, NV 89512-

Hearing Date

Hearing Time

FILED

IN THE SECOND JUDICIAL DISTRICT COURT OF NEVADA  
 IN AND FOR THE COUNTY OF WASHOE

2003 JUL 16 PM 2:14

RONALD H. LONGTIN, JR.

BY [Signature]  
DEPUTY

FERRILL J. VOLPICELLI,  
 Petitioner,

vs

STATE OF NEVADA  
 Respondents et al.,

CASE NO.

02-0147

02-0148

03-1263

DEPT. NO.

9

EX PARTE

PETITION FOR CLARIFICATION  
 ON ISSUES REGARDING  
 STATE BAIL

COMES NOW THE PETITIONER, FERRILL J. VOLPICELLI, AND THROUGH HIS COUNSEL, TO MOVE THE COURT FOR CLARIFICATION ON ISSUES REGARDING THE POSTING OF PETITIONER'S STATE BAIL; AS IT RELATES TO HIS FEDERAL HOLD. SAID PETITIONER'S FAMILY SEEKS TO MITIGATE PETITIONER'S CUSTODY SITUATION BY EXPEDITING HIS TRANSFER TO FEDERAL CUSTODY. THAT THIS WILL COMPEL THE DISPOSITION OF PETITIONER'S FEDERAL MATTER CONCOMITANT WITH THE STATE PENDING CHARGES. IN THE EVENT THE STATE BAIL IS POSTED WITH REGARDS TO THE ABOVE REFERENCED CASES, PETITIONER'S CUSTODY WILL TRANSFER TO THE FEDS VIA THE US MARSHALS. AND ALTHOUGH IT IS THE PETITIONER'S OBJECTIVE TO APPROACH THE US ATTORNEY FOR A STIPULATION TO HAVE PETITIONER REMAIN IN

1 FEDERAL CUSTODY AT WCSO, WITH THE  
2 ANTICIPATION OF APPEARING IN STATE  
3 COURT, THERE IS THE POSSIBILITY OF THE  
4 PETITIONER'S TRANSFER FROM WCSO TO A  
5 FEDERAL FACILITY.

6 THAT IN EFFECT, THIS WILL POSE ADVERSE  
7 CONSEQUENCES IN TERMS OF PETITIONER'S  
8 ABILITY TO APPEAR IN STATE COURT.

9 INASMUCH AS THIS POTENTIAL COMPLICATION  
10 IS THROUGH NO FAULT OF THE PETITIONER,  
11 PETITIONER'S FAMILY WOULD LIKE WRITTEN  
12 CONFIRMATION THAT THIS COURT WILL NOT  
13 REVOKE THE STATE BAIL FOR AN F.T.A.;  
14 THEREBY SUBJECTING PETITIONER'S FAMILY'S  
15 FUNDS TO FORFEITURE.

16 THAT WHETHER THE PETITIONER IS IN STATE  
17 OR FEDERAL CUSTODY, PETITIONER'S FAMILY  
18 REQUESTS CONFIRMATION THAT, AT THEIR  
19 OPTION, THE PETITIONER'S FAMILY CAN  
20 REVOKE BAIL AND RECEIVE A PROMPT RETURN  
21 OF THEIR FUNDS.

22 FURTHER, THAT PETITIONER'S FAMILY RESPECTFULLY  
23 REQUESTS A COURT DOCUMENT ON THIS  
24 MATTER WITHIN THE NEXT 10 (TEN)  
25 BUSINESS DAYS.

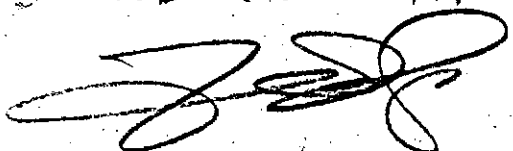
26 THAT THIS PETITION IS BASED UPON ALL  
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1 PAPERS AND PLEADINGS ON FILE  
2 HEREIN, AS WELL AS ORAL ARGUMENTS  
3 AT AN IMMEDIATE HEARING.

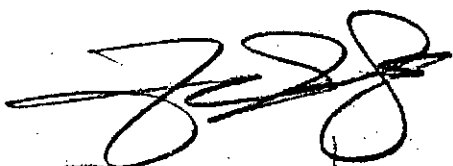
4 THE PETITION ITSELF WAS SUGGESTED BY  
5 JUDGE HANDESTY AT THE CONCLUSION OF  
6 THE DAY'S COURT PROCEEDINGS ON 10  
7 JULY, 2003.

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9 RESPECTFULLY SUBMITTED,

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11 DATED THIS 14<sup>TH</sup> DAY OF JULY, 2003

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14 FERRUCCIO VOLPICELLI

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17 CERTIFICATE OF SERVICE DATED AND COPY  
18 MAILED ON THIS 14<sup>TH</sup> DAY OF JULY, 2003,  
19 TO THE WASHOE COUNTY DISTRICT ATTORNEY'S  
20 OFFICE UNDER PENALTY OF PERJURY PURSUANT  
21 TO N.R.S. 201.165.

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24 FERRUCCIO VOLPICELLI  
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## INMATE REQUEST

only one issue/topic per request form.  
only one form per each issue/topic.  
do not address your request to a named individual.

2. Write only in the space provided.  
4. No profanity.

Inmate's Name: The Ferrill Volpicelli, Suri Turis

Booking #: 03-06889

Living Unit: 7

Cell #: 12

Date: 7/16/2003

Describe Request: P. 1

In the Second Judicial District Court  
In and for the County of Washoe

The State of Nevada  
Plaintiff

The Honorable Judge Hardesty

vs.

Dept 9

CS: 02-0147

Terril J. Volpicelli

Motion: Pursuant to Title 14,

Invoked Title 28, U.S.C. 2072

Chapter 176 NRS. 515 (2003)

### Certification:

The Ferrill Volpicelli, Suri Turis, hereby moves the Court of Competent Jurisdiction in a  
a timely manner, and in accord with subsection 3 of the above mentioned NRS. and/or subsection 4.

Motion: Pursuant to the Foregoing N.R.s wherefrom exists the provision to move the

Inmate's Signature: [Signature]

7/16/03

Without Prejudice W.C.C. 1-207.1 + U.S.C. 1-107.6

Receiving Staff Member/I.D.#:

Date:

(PRINT NAME)

(INMATE IS NOT TO WRITE BELOW THIS SPACE)

### ACTION

Routed to: \_\_\_\_\_ Date: \_\_\_\_\_ Re-Routed to: \_\_\_\_\_ Date: \_\_\_\_\_

Answer: Approved ☐

Denied ☐

Reason:

Responding Staff Member / I.D.#:

Date:

(PRINT NAME)



**INMATE REQUEST**

1. Only one issue/topic per request form.
2. Write only in the space provided.
3. Only one form per each issue/topic.
4. No profanity.
5. Do not address your request to a named individual.

Inmate's Name: The Ferrill Velpicelli, Surturis Booking #: 03-06889Housing Unit: 7 Cell #: 12 Date: 7/16/2003Describe Request: P.2

In the Second Judicial District Court  
In and for the County of Washoe  
The Honorable Judge Hardesty

Dept 9Motion Continued

court to grant a new trial and/or order a judgement of acquittal based upon  
newly discovered evidence which shall be construed to conclude that there is a  
high probability that counsel was ineffective due to a conflict of interest, which  
explains why the proper defense was not made in defense of said allegation:  
CN: 02-0147.

Affidavit in Support of Motion to grant a new trial and/or order a judgement of acquittalOn the evening of the 10 July 2003, during a conversation with family membersInmate's Signature: [Signature]7/16/03U.C.C. 1-103.6 & U.C.C. 1-204 All Rights Reserved

Receiving Staff Member/I.D.#:

Date: \_\_\_\_\_

(PRINT NAME)

(INMATE IS NOT TO WRITE BELOW THIS SPACE)

**ACTION**

Routed to: \_\_\_\_\_ Date: \_\_\_\_\_ Re-Routed to: \_\_\_\_\_ Date: \_\_\_\_\_

Answer: Approved ☐Denied ☐

Reason:

Responding Staff Member / I.D.#:

Date: \_\_\_\_\_

(PRINT NAME)

**INMATE REQUEST**

1. Only one issue/topic per request form.
2. Write only in the space provided.
3. Only one form per each issue/topic.
4. No profanity.
5. Do not address your request to a named individual.

Inmate's Name: FERRILL VOLPICELLI Booking #: 03-06889Housing Unit: 7 Cell #: 12 Date: 7-16-03

Describe Request: TO THE HONORABLE JUDGE HARDESTY  
ENCLOSED FOR THE COURT'S REVIEW AND CONSIDERATION  
ARE PLEADINGS REGARDING ISSUES WITH MY STATE CASES.  
CLEARLY, MR. KADUC HAS DISASSOCIATED HIMSELF FROM  
MY LEGAL MATTERS AND MR. ALAN HAS INFORMED ME  
THAT HE WILL NOT PREPARE SUCH PLEADINGS ON MY BEHALF.  
THUS, I AM LEFT WITH NO ALTERNATIVE BUT TO SUBMIT THE  
ENCLOSED PLEADINGS WHICH NEED TO BE ADDRESSED BY THE  
COURT.  
AS FAR AS THE STATE BAIL ISSUE IS CONCERNED, A LETTER FROM  
YOUR OFFICE WILL SUFFICE.  
THE COMPLICATIONS WITH MR. KADUC'S CONFLICT OF INTEREST  
POSES ISSUES WHICH ALSO NEED TO BE CONSIDERED IN A TIMELY  
MANNER.  
PLEASE SCHEDULE A HEARING ON THE FOREGOING MATTERS AT  
THE NEXT AVAILABLE COURT DATE.

RESPECTFULLY SUBMITTED,

Inmate's Signature: [Signature]

Receiving Staff Member/I.D.#:

(PRINT NAME)

Date: 7/16/03

(INMATE IS NOT TO WRITE BELOW THIS SPACE)

**ACTION**

Routed to: \_\_\_\_\_ Date: \_\_\_\_\_ Re-Routed to: \_\_\_\_\_ Date: \_\_\_\_\_

Answer: Approved ☐ Denied ☐

Reason:

CERTIFICATE OF SERVICE: DATED AND COPY MAILED ON THE  
15TH DAY OF JULY 2003 TO WASHINGTON COUNTY DISTRICT  
ATTORNEY, JOHN KADUC ESQ, AND JERIC ALAN ESQ AS  
CERTIFIED UNDER PENALTY OF PERJURY PURSUANT TO  
NRS 208.165.

Responding Staff Member / I.D.#:

(PRINT NAME)

[Signature]  
FERRILL VOLPICELLI Date: JULY 16

**INMATE REQUEST**

1. Only one issue/topic per request form.
2. Write only in the space provided.
3. Only one form per each issue/topic.
4. No profanity.
5. Do not address your request to a named individual.

Inmate's Name: FERRILL VOLPICELLI Booking #: 03-06889Housing Unit: 7 Cell #: 12 Date: 7-15-03

Describe Request: DEAR MR. KADUC  
INASMUCH AS YOU DO, NOT ACCEPT MY CALLS,  
ALONG WITH MR. ALAN'S POSITION THAT CASE 02-0147  
IS NOT HIS CONCERN, I WAS LEFT WITH NO ALTERNATIVE  
BUT TO WRITE YOU. AND IN ORDER TO BE IN  
COMPLIANCE WITH THE GUIDELINES OF THE APPLICABLE  
NEVADA REVISED STATUTE, I WAS COMPELLED TO FILE  
THE ACCOMPANYING PLEADING.  
MOREOVER, IT IS SELF EXPLANATORY IN VIEW OF THE  
RECENT REVELATION CONCERNING YOUR INVOLVEMENT  
AS A JUDGE & A CONFLICT OF INTEREST WHICH  
CONTINUES TO DAUNT MY FAMILY AND I THROUGHOUT  
PRESENT DAY.  
I'M CONFIDENT THAT YOU UNDERSTAND THE IMPLICATIONS  
WITH MY CASES.

THANK YOU,Inmate's Signature: Receiving Staff Member/I.D.#: \_\_\_\_\_ Date: \_\_\_\_\_  
(PRINT NAME)

(INMATE IS NOT TO WRITE BELOW THIS SPACE)

**ACTION**

Routed to: \_\_\_\_\_ Date: \_\_\_\_\_ Re-Routed to: \_\_\_\_\_ Date: \_\_\_\_\_

Answer: Approved ☐ Denied ☐

## Reason:

CERTIFICATE OF SERVICE: DATED AND COPY MAILED ON THE  
15TH DAY OF JULY, 2003, TO THE HONORABLE JUDGE HARDESTY,  
WASHOE COUNTY DISTRICT ATTORNEY, WASHOE COUNTY DISTRICT COURT  
CLERK, AND JAKE ALAN, ESQ., AS CERTIFIED UNDER THE PENALTY  
OF PERJURY PURSUANT TO NRS 208.165.

Responding Staff Member / I.D.#: \_\_\_\_\_ Date: JULY 16  
(PRINT NAME) FERRILL VOLPICELLI