

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

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Elizabeth A. Brown  
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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 6 OF 10

DOCUMENTS

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

FERRILL J. VOLPICELLI,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent.

Case No.: CR02-0147

Dept. No.: 10

**ORDER DENYING PETITIONER'S MOTION FOR ELIMINATION OF FEES**

Pending before the Court is Petitioner's *Motion for Elimination of Fees* ("Motion"), filed on January 8, 2021. To date, Respondent has not filed a response or opposition to the Motion. On January 26, 2021, Petitioner submitted the Motion for the Court's consideration. However, on March 16, 2021, upon an order of recusal, the case was reassigned from Department 9 to Department 10. On April 7, 2021, Petitioner re-submitted the Motion for Court's consideration.

In the Motion, Petitioner alleges he is unable to make payments toward his court-imposed fines and fees, and Petitioner requests the elimination of all such fees related to multiple cases (CR98-2160, CR02-0147, and CR02-0148) within this Court's jurisdiction.

In CR98-2160, Petitioner was ordered to pay \$25 for an administrative assessment fee and \$250 for DNA fees; Petitioner was also fined \$5,000. See Judgment, filed on November 3, 1998. In CR02-0147, Petitioner was ordered to pay \$25 for an administrative

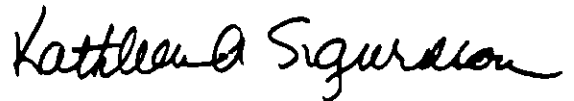
assessment fee, \$1,000 for public defender attorney fees, and \$800 for a psychosexual evaluation fee exam; Petitioner was also fined \$5,000. See Amended Judgment, filed on March 2, 2015. In CR02-0148, Petitioner was ordered to pay \$25 for an administrative assessment fee and \$500 for public defender attorney fees; Petitioner was not fined. See Third Amended Judgment, filed on September 23, 2013.

The listed fines and fees are included in the judgment against Petitioner in each case. To the extent Petitioner challenges these fines and fees, Petitioner challenges the judgment. Unfortunately, the time for appealing such judgment has long passed. See NRAP 4(b). Further, Petitioner has not provided any legal authority which would allow the Court to consider or provide the relief Petitioner seeks.

Accordingly,

IT IS HEREBY ORDERED Petitioner's Motion is DENIED.

DATED this 10th day of June, 2021.

A handwritten signature in black ink, reading "Kathleen A. Sigurdson". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

CASE NO.: CR02-0147

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, COUNTY OF WASHOE; that on the 10th day of June, 2021, I electronically filed the foregoing **ORDER DENYING PETITIONER'S MOTION FOR ELIMINATION OF FEES** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

**Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:**

- JENNIFER NOBLE, ESQ. for STATE OF NEVADA
- ZACH YOUNG, ESQ.
- DIV. OF PAROLE & PROBATION
- KATHERINE LYON, ESQ. for STATE OF NEVADA

**Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada:**

- FERRILL J. VOLPICELLI, #79565  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

/s/ Michael Decker  
JUDICIAL ASSISTANT

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-06-10 09:11:55.79.

**KATHERINE LYON, ESQ.** - Notification received on 2021-06-10 09:11:55.843.

**ZACH YOUNG, ESQ.** - Notification received on 2021-06-10 09:11:55.816.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-06-10 09:11:55.722.

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A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

06-10-2021:09:10:24

Clerk Accepted:

06-10-2021:09:11:21

Court:

Second Judicial District Court - State of Nevada

Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Ord Denying

Filed By:

Judicial Asst. MDecker

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**The following people were served electronically:**

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

ZACH YOUNG, ESQ.

DIV. OF PAROLE & PROBATION

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA  
JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

CODE 2540

**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: 10**

**FERRILL J. VOLPICELLI,**

**Defendant.**

**/**

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that on June 10, 2021, the Court entered a decision or order in this matter, a true and correct copy of which is attached hereto.

Dated June 10, 2021.

**ALICIA LERUD**

**Clerk of the Court**

**/s/N. Mason**

**N. Mason-Deputy Clerk**

**CERTIFICATE OF SERVICE**

Case No. CR02-0147

Pursuant to NRCP 5 (b), I certify that I am an employee of the Second Judicial District Court; that on June 10, 2021, I electronically filed the Notice of Entry of Order with the Court System which will send a notice of electronic filing to the following:

DIV. OF PAROLE & PROBATION  
KATHERINE H. LYON, ESQ. for STATE OF NEVADA  
JENNIFER P. NOBLE, ESQ. for STATE OF NEVADA

I further certify that on June 10, 2021, I deposited in the Washoe County mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the attached document, addressed to:

Attorney General's Office  
100 N. Carson Street  
Carson City, NV 89701-4717

Ferrill J. Volpicelli (#79565)  
Lovelock Correctional Center  
1200 Prison Rd.  
Lovelock, Nevada 89419

The undersigned does hereby affirm that pursuant to NRS 239B.030 and NRS 603A.040, the preceding document does not contain the personal information of any person.

Dated June 10, 2021.

/s/N. Mason  
N. Mason- Deputy Clerk



2840

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

FERRILL J. VOLPICELLI,

Petitioner,

vs.

THE STATE OF NEVADA,

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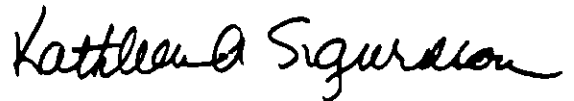
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Accordingly,

IT IS HEREBY ORDERED Petitioner's Motion is DENIED.

DATED this 10th day of June, 2021.

A handwritten signature in black ink, reading "Kathleen A. Sigurdson". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

CASE NO.: CR02-0147

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, COUNTY OF WASHOE; that on the 10th day of June, 2021, I electronically filed the foregoing **ORDER DENYING PETITIONER'S MOTION FOR ELIMINATION OF FEES** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

**Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:**

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- ZACH YOUNG, ESQ.
- DIV. OF PAROLE & PROBATION
- KATHERINE LYON, ESQ. for STATE OF NEVADA

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Lovelock Correctional Center  
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/s/ Michael Decker  
JUDICIAL ASSISTANT

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-06-10 10:08:33.758.

**KATHERINE LYON, ESQ.** - Notification received on 2021-06-10 10:08:33.813.

**ZACH YOUNG, ESQ.** - Notification received on 2021-06-10 10:08:33.787.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-06-10 10:08:33.703.

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PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

06-10-2021:10:07:07

Clerk Accepted:

06-10-2021:10:07:44

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Notice of Entry of Ord

Filed By:

Deputy Clerk NMason

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

ZACH YOUNG, ESQ.

DIV. OF PAROLE & PROBATION

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA  
JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

FERRIS T. VOLPKE  
PO BOX 1111  
1200 PERSIMMON RD  
LOWERY, NJ 07049

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEW JERSEY

IN AND FOR THE COUNTY OF WASHINGTON

STATE OF NEW JERSEY,  
PLAINTIFF,

CASE NO. 98-2160  
02-0147  
02-0147

VS.

FERRIS T. VOLPKE,  
DEFENDANT,

DEPT. 10

MOTION FOR  
RECONSIDERATION

DEFENDANT, FERRIS T. VOLPKE, (VOLPKE) TODAY  
SUBMITS HIS MOTION FOR RECONSIDERATION AS TO  
THE DISTRICT COURT'S ORDER DATED JUNE 10, 2021,  
DENYING THE MOTION FOR ELIMINATION OF FEES.  
THE INSTANT MOTION FOR RECONSIDERATION IS MADE  
AND BASED UPON THE PAPERS ON FILE, THE APPLICABLE  
COURT'S LOCAL RULES AND NEW JERSEY RULES OF CIVIL  
PROCEDURE, AS WELL AS THE FOLLOWING ARGUMENTS.

## I JURISDICTION

THE DISTRICT COURT RETAINS THE JURISDICTION TO RECONSIDER ITS DENIAL OF VOLPICELLI'S MOTION FOR THE ELIMINATION OF FINES AND FEES PURSUANT TO NRC §9.

## II STATEMENT OF CASE

VOLPICELLI FILED A MOTION FOR ELIMINATION OF FEES (MOTION) AND A MOTION TO REVOKE CERTAIN DISTRICT COURT JUDGES WITHIN THE SECOND JUDICIAL DISTRICT ON JANUARY 8, 2021.

THE MOTION APPEAL REFERENCED ALL FEES, FINES AND OTHER EXPENSES INCURRED BY THE STATE FOR VOLPICELLI'S CASE(S) IN CR98-2160, CR02-0147, & CR02-0148. TO DATE, THE RESPONDENT(S) HAVE NOT FILED EITHER A RESPONSE OR OPPOSITION TO EITHER MOTION.

ON MARCH 16, 2021, UPON AN ORDER OF RECUSAL, THE MATTER WAS REASSIGNED FROM DEPARTMENT 10 TO DEPARTMENT 9.

THE REVIEWING COURT ACKNOWLEDGED THAT (1) VOLPICELLI CITED NUMEROUS FINES, FEES AND OTHER COSTS ASSOCIATED WITH EACH CASE'S JUDGMENT OF CONVICTIONS; (2) HE IS UNABLE TO MAKE PAYMENTS NOW AND IN THE FUTURE, AND (3) HIS MOTION REQUESTS THE ELIMINATION OF ALL SUCH FEES IN THE RESPECTIVE CASES WHEREIN



### THE COURT'S JURISDICTION.

ON JUNE 10, 2021, THE COURT DENIED THE MOTION CLAIMING THAT (1) VOLKREIN'S MOTION AMOUNTED TO A CHALLENGE AS TO THE CASES' JUDGMENTS OF CONVICTION, (2) HE IS TIME BARRED FROM ANY SUCH CHALLENGES; AND (3), HIS PLEADING FAILS TO CITE ANY LEGAL AUTHORITY WHICH WOULD ALLOW THE COURT TO CONSIDER OR PROVIDE THE RELIEF SOUGHT.

### III SUMMARY OF ARGUMENTS

VOLKREIN ASSERTS THAT THE DISTRICT COURT MISAPPREHENDED THE FACTS AND CIRCUMSTANCES OF HIS PLEADING. THIS INCLUDES, BUT IS NOT LIMITED TO: (1) THE FACT THAT HE IS NOT CHALLENGING THE JUDGMENTS OF CONVICTIONS SPECIFIC TO THE JUSTIFICATION AND IMPOSITION OF ANY AND ALL FEES AT SENTENCING; (2) THAT THERE IS A STATUTE WHICH ALLOWS THE DISTRICT COURT TO MODIFY FINANCIAL OBLIGATIONS, IN PART OR IN FULL, AS TO THE RESPECTIVE JUDGMENTS OF CONVICTION; AND (3) THAT THIS COURT, SPECIFICALLY DEPARTMENT 10 PREVIOUSLY EXEMPTED FEES TO VOLKREIN'S CURRENT CASE IN CRO3-1263 DURING 2013. AS SUCH, IT WOULD BE AN ABUSE OF DISCRETION TO NOT PROVIDE RELIEF.

TO VOLPICHINI EITHER IN PART OR IN FULL;

#### IV SUPPORTING FACTS AND ARGUMENTS

A. THE DISTRICT COURT'S RATIONALE TO DENY RELIEF IS BASED UPON A MISAPPREHENSION OF FACTS AND CIRCUMSTANCES.

(1) VOLPICHINI IS NOT CHALLENGING HIS JUDGMENTS OF CONDEMNATIONS SPECIFIC TO THE JUSTIFICATION OR IMPOSITION OF THE REFERRED FEES FOR RELIEF.

VOLPICHINI HAS NOT POSSED HIS PROPERTY AS A MORTGAGEE TO CORRECT AND REVOKE SENTENCE, OR VIA A WRIT. HIS MOTION SEEMS RELIED FROM THE FISCAL OBLIGATIONS WITH THREE (3) DIFFERENT JUDGMENTS OF CONDEMNATION WHICH EXPIRED UPWARDS OF ALMOST TWO (2) DECADES AGO.

(2) VOLPICHINI HAS INDICATED THE CIRCUMSTANCES IN HIS LIFE WHICH PRECIPITATED HIS ABILITY TO SATISFY THE FISCAL OBLIGATIONS WITHIN THE EXPIRED CASES. OVER THE PAST TWO (2) DECADES OF CONTINUOUS CUSTODY, HE HAS SATISFIED ONLY A FEW HUNDRED DOLLARS OF THE ALMOST \$26,000

Fines, Fees, Restitution and other Expenses  
 Related to all of his Arguments of  
 Conviction. At his eventual Release, his  
 Disabilities and Major Income from  
 Social Security will Not change his situation.

B. Volkenstein cited NRS 178.3925(1) as Legal  
 Authority for the Court to Consider and  
 Grant Relief as to Two (2) Public Defender  
 Reimbursement Fees in Two (2) of the three  
 aforementioned cases.

(1) NRS 178.3925(1) provides SAFEGUARDS TO  
 PREVENT AN INDIGENT DEFENDANT FROM BEING  
 REQUIRED TO PAY FOR HIS DEFENSES EXPENSES  
 TO THE STATE.

Therein, the Statute allows for a District  
 Court to Consider the Defendant's Financial  
 Resources and the Burden the obligation will  
 cause. Said Statute also allows a Petitioner  
 to Motion the District Court for Relief  
 from any such Reimbursement at ANY TIME.  
TAYLOR V. STATE, 903 P2d 805, 809. (CITING  
 THE FULLER STANDARD IN Fuller v Oregon,  
 94 Sct 2116 (1974))

(2) N.J.S. 17B.153 provides the Court Authority TO MODIFY IN PART, OR IN FULL, THE TERMS OF ANY AND ALL FINES, FEES, RESTRICTIONS, AS WELL AS ANY OTHER FINES EXPENSES TO ACCOMMODATE A PETITIONER'S LIFE CIRCUMSTANCES.

Within the aforementioned case, TAYLOR V STATE, THE COURT NOT ONLY REVERSED THE REIMBURSEMENT OF FEES FOR TAYLOR'S DEFENSE, BUT MODIFIED FINES AS WELL.

C. THE STATE IS SILENT AS TO THE MATTER OF VOLPICELLI'S REQUEST FOR REVER.

(1) THE DISTRICT COURT SHOULD INTERPRET THE STATED SILENCE ON THE MATTER AS A SIGN OF ACQUIESCENCE, AND/OR CONFESSION OF ERROR.

D. JUDGE SATTRE ACKNOWLEDGED VOLPICELLI'S CIRCUMSTANCES AND REVERSED THEM OF THE FEES REQUESTED IN A SIMILAR STYLED MOTION IN 2013!

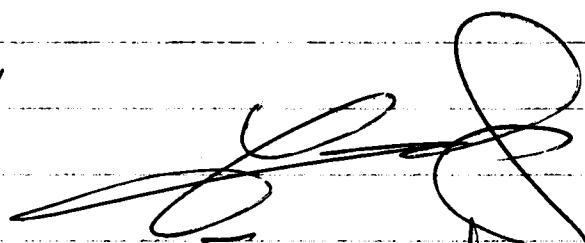
AS SUCH, IT WOULD BE AN ABUSE OF DISCRETION IF THIS COURT'S RATIONALE FOR DENYING SIMILAR REVER IN THESE EXPANDED CASES APPEARED ARBITRARY OR CAPRICIOUS, AND W/FEATHER

THE DENIAL FOR RELIEF EXCEEDED THE BOUNDS  
OF LAW AND REASON. CLAWFORD V STATE, 121  
P3d 582, 585 (2008).

## II Relief Sought:

BASED ON THE FOREGOING, THE COURT SHOULD  
RECONSIDER ITS DECISION TO DENY VOLUNTARY  
RELIEF, IN PART OR IN FULL. THE INSISTANT REQUEST  
PURSUANT TO NRCJ 59 ALLOWS FOR A  
RECONSIDERATION IF A COURT'S PRIOR RULING  
CONSTITUTED A MISAPPROPRIATION OF THE PETITIONER'S  
CLAIMS AND CIRCUMSTANCES, SO AS TO PREVENT  
A MISADMINISTRATION OF JUSTICE.

DATED this 17, DAY  
OF JUNE, 2021

  
Terrence T. Vapnek

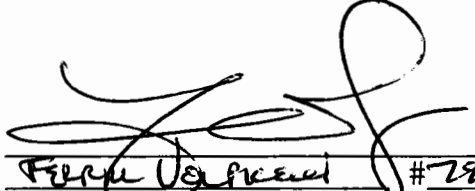
Defendant in Prison

#79505 ELCC  
1200 PRISON ROAD  
LOVELOCK, NV 89419

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the  
 foregoing Motion For Reconsideration  
 to the below address(es) on this 17 day of JUNE,  
 2021, by placing same in the U.S. Mail via prison law library  
 staff, pursuant to NRCP 5(b):

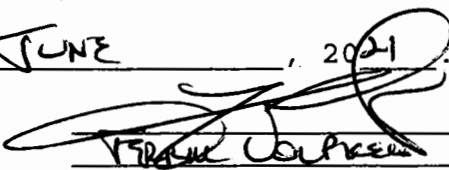
WASHOE COUNTY  
 DISTRICT ATTORNEY  
 75 CAVE ST  
 RENO, NV 89501

  
Fern DePue #79845  
 Lovelock Correctional Center  
 1200 Prison Road  
 Lovelock, Nevada 89419  
Defendant In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding  
Motion For Reconsideration filed in  
 District Court Case No. 98-2160  
02-0147  
02-0417 does not contain the  
 social security number of any person.

Dated this 17 day of JUNE, 2021

  
Fern DePue  
Defendant In Pro Se

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-06-24 09:51:02.113.

**KATHERINE LYON, ESQ.** - Notification received on 2021-06-24 09:51:02.172.

**ZACH YOUNG, ESQ.** - Notification received on 2021-06-24 09:51:02.144.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-06-24 09:51:02.05.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

06-24-2021:09:49:08

Clerk Accepted:

06-24-2021:09:50:29

Court:

Second Judicial District Court - State of Nevada

Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Mtn for Reconsideration

Filed By:

Deputy Clerk KHudson

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

ZACH YOUNG, ESQ.

DIV. OF PAROLE & PROBATION

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI



STATE OF NEVADA for STATE OF NEVADA  
JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

Case No.

CR98-2160  
CR02-0147  
CR02-0148

Dept. No.

10

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

\* \* \* \* \*

STATE OF NEVADAPLAINTIFF

-vs-

FELIX J. VOJCEK  
DEFENDANTREQUEST FOR SUBMISSION  
OF MOTION

It is requested that the

Moran Fox Reconsolidation

which was filed on the 24 day of JUNE, 2024, in  
the above-entitled matter, be submitted to the Court for  
decision.

Dated this 3rd day of JULY, 2024.


FELIX J. VOJCEK  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

DEFENDANT In Pro Se

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing REQUEST FOR SUBMISSION OF MOTION to the below address(es) on this 3rd day of JULY, 2024, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

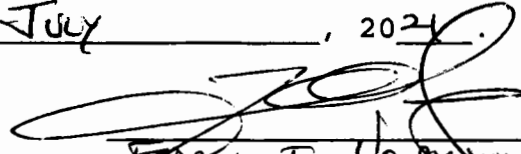
WASHOE COUNTY  
DISTRICT ATTORNEY  
75 COURT ST  
RENO, NV 89501

  
FERN T. VORKEN # 79565  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419  
Defendant In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding REQUEST FOR SUBMISSION OF MOTION does not contain the social security number of any person.

Dated this 3rd day of JULY, 2024.

  
FERN T. VORKEN  
Defendant In Pro Se

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-07-06 16:03:44.016.

**KATHERINE LYON, ESQ.** - Notification received on 2021-07-06 16:03:44.074.

**ZACH YOUNG, ESQ.** - Notification received on 2021-07-06 16:03:44.043.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-07-06 16:03:43.961.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

07-06-2021:16:02:37

Clerk Accepted:

07-06-2021:16:03:11

Court:

Second Judicial District Court - State of Nevada

Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Request for Submission

Filed By:

Deputy Clerk KHudson

You may review this filing by clicking on the following link to take you to your cases.

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**The following people were served electronically:**

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

ZACH YOUNG, ESQ.

DIV. OF PAROLE & PROBATION

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA  
JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

3025

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

THE STATE OF NEVADA,

Plaintiff,

vs.

FERRILL J. VOLPICELLI,

Defendant.

Case No.: CR02-0147

Dept. No.: 10

**ORDER GRANTING IN PART AND DENYING IN PART  
DEFENDANT'S MOTION FOR RECONSIDERATION**

On January 8, 2021, Defendant FERRILL J. VOLPICELLI filed a *Motion for Elimination of Fees*, wherein Defendant alleged indigency and sought the elimination of all court-imposed fees for three cases within this Court's jurisdiction (CR98-2160, CR02-0147, and CR02-0148).

On June 10, 2021, the Court entered an *Order Denying Defendant's Motion for Elimination of Fees* ("Order"). The Court held that Defendant's motion amounted to a challenge of the *Amended Judgment* entered on March 2, 2015, where the fees were ordered. Additionally, the Court found that Defendant failed to provide any legal authority that would allow the Court to revise the Amended Judgment or eliminate the fees.

On June 24, 2021, Defendant filed a *Motion for Reconsideration* ("Motion"). To date, no opposition has been filed. On July 6, 2021, Defendant submitted the Motion for the Court's consideration.

In the Motion, Defendant contends that the Court misapprehended Defendant's motion for elimination of fees. Defendant contends he was not challenging the Judgment or terms of his sentence. Motion 4:9-11. Rather, Defendant was seeking to eliminate fees even in light of a valid sentence. In support, Defendant argues NRS 178.3975, NRS 176.1853, and *Taylor v. State*, 903 P.2d 805, 809 (Nev. 1995), provide the Court with authority to eliminate his fees.

In reviewing the Motion, the Court will provide Defendant with the benefit of the doubt and reconsider Defendant's motion for elimination of fees as one not seeking to challenge the judgment of conviction, but rather to waive previously sentenced fees that now impose economic hardship. Looking to the legal authorities cited by Defendant, the Court finds that only NRS 178.3975(3) may provide Defendant with some of the relief sought.

NRS 178.3975(3) allows a defendant experiencing manifest hardship to petition the court for remission of fees related to state-provided legal representation and provides as follows:

A defendant who has been ordered to pay expenses of the defendant's defense and who is not willfully or without good cause in default in the payment thereof may at any time petition the court which ordered the payment for remission of the payment or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due or modify the method of payment.

NRS 178.3975(3).

In the instant case, the Amended Judgment ordered Defendant to, among other things<sup>1</sup>, reimburse Washoe County \$1,000 for legal representation by the Washoe County Public Defender's Office. However, Defendant seeks remission of such fees, stating that, "at no point in time will [he] be able to make payments as to his indebtedness to society."

---

<sup>1</sup> The Amended Judgment also included a \$5,000 fine, a \$25 administrative assessment fee, and an \$800 psychosexual evaluation fee. However, Defendant has provided no legal authority for the Court to remit these categories of fees.



Motion 3. Defendant states that he “suffers from age related ailments which preclude his ability to earn any money during custody” and anticipates a social security income of “less than \$800 per month at his eventual release.” Motion for Elimination of Fees, pp. 2-3. Defendant estimates his aggregate indebtedness to society is well over \$200,000, including case-related fines and fees, child support, and taxes. *Id.* at 2.

While the acknowledging the enormity of Defendant’s financial burden, the Court is unable to make the findings required by NRS 178.3975(3) to grant remission. Defendant has not provided enough information for the Court to find that he is not willfully or without good cause in default in the payment of the fees. Additionally, Defendant has failed to demonstrate how payment would impose manifest hardship on Defendant or Defendant’s immediate family. Pursuant to NRS 178.3975(3), the Court must make both findings before remitting any fees associated with Defendant’s legal representation. Although Defendant estimates his debts (not including his \$1,000 legal representation fees) to surpass \$200,000, Defendant fails to provide any estimates of expenses (including toward repayment of \$200,000 debt) that demonstrate manifest hardship would be created by payment toward the \$1,000 legal representation fees.

Accordingly, upon reconsideration of Defendant’s motion for elimination of fees, the Court orders that motion DENIED.

IT IS SO ORDERED.

Dated this 10th day of September, 2021.

  
DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

CASE NO.: CR02-0147

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, COUNTY OF WASHOE; that on the 10th day of September, 2021, I electronically filed the foregoing **ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION FOR RECONSIDERATION** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

**Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:**

- JENNIFER NOBLE, ESQ. for STATE OF NEVADA
- DIV. OF PAROLE & PROBATION
- ZACH YOUNG, ESQ.
- KATHERINE LYON, ESQ. for STATE OF NEVADA

**Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada:**

- FERRILL JOSEPH VOLPICELLI  
#79565  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

/s/ Scott Higginbotham  
DEPT. 10 COURT CLERK

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-09-10 09:42:56.395.

**KATHERINE LYON, ESQ.** - Notification received on 2021-09-10 09:42:56.449.

**ZACH YOUNG, ESQ.** - Notification received on 2021-09-10 09:42:56.422.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-09-10 09:42:56.34.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

09-10-2021:09:41:51

Clerk Accepted:

09-10-2021:09:42:24

Court:

Second Judicial District Court - State of Nevada

Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Ord Granting/Denying in Part

Filed By:

Court Clerk SHigginbotham

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

ZACH YOUNG, ESQ.

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA  
FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

1 Case No. 98-2162/02-0142/02-0148  
2 Dept. No. 10  
3  
4  
5

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

\* \* \* \* \*

9 STATE OF NEVADA, )  
10 Plaintiff, )  
11 -vs- )  
12 FERRIE J. KUPICANI, )  
13 Defendant. )  
14

REQUEST FOR SUBMISSION  
OF MOTION

15 It is requested that the Motion For Reconsideration  
16 (See Bill),  
17 which was filed on the 24 day of JUNE, 2021, in  
18 the above-entitled matter, be submitted to the Court for  
19 decision.


20 Dated this 24<sup>th</sup> day of SEPTEMBER, 2021.  
21

22 FERRIE KUPICANI # 7222  
23 Lovelock Correctional Center  
24 1200 Prison Road  
25 Lovelock, Nevada 89419  
26 Defendant In Pro Se  
27  
28

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing REQUEST FOR SUBMISSION OF MOTION to the below address(es) on this 7<sup>th</sup> day of September, 2021, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

WASHOE COUNTY  
DISTRICT ATTORNEY  
75 COURT ST  
RENO, NV 89501

  
Defendant #22624  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

Defendant In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding REQUEST FOR SUBMISSION OF MOTION does not contain the social security number of any person.

Dated this 7<sup>th</sup> day of September, 2021.

  
Defendant

Defendant In Pro Se

**EXHIBIT 1**

**EXHIBIT 1**

#001

LCC



FERRIS T. VOLPKE  
PRO SEC  
1200 PERSID RD  
LEWISTON, NJ 07024

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEW JERSEY  
IN AND FOR THE COUNTY OF WASHINGTON

STATE OF NEW JERSEY  
PLAINTIFF,

CASES 8 98-2160  
02-0147  
02-0147

VS.

FERRIS T. VOLPKE  
DEFENDANT,

DEPT 2 10

MOTION FOR  
RECONSIDERATION

DEFENDANT, FERRIS T. VOLPKE, (VOLPKE) TIMELY  
SUBMITS THIS MOTION FOR RECONSIDERATION AS TO  
THE DISTRICT COURT'S ORDER DATED JUNE 10, 2021,  
DENYING THE MOTION FOR EXEMPTION OF FEES.  
THE INSTANT MOTION FOR RECONSIDERATION IS MADE  
AND BASED UPON THE PAPERS ON FILE, THE APPLICABLE  
COURT'S LOCAL RULES AND NEW JERSEY RULES OF CIVIL  
PROCEDURE, AS WELL AS THE FOLLOWING ARGUMENTS.

## I JURISDICTION

THE DISTRICT COURT REMAINS THE JURISDICTION TO RECONSIDER ITS DENIAL OF VOLPICELLI'S MOTION FOR THE ELIMINATION OF FINES AND FEES PURSUANT TO NRCJ 59.

## II STATEMENT OF CASE

VOLPICELLI FILED A MOTION FOR ELIMINATION OF FEES (MOTION) AND A MOTION TO REVOKE CERTAIN DISTRICT COURT JUDGES WITHIN THE SECOND JUDICIAL DISTRICT ON JANUARY 8, 2021.

THE MOTION APPY REFERENCED ALL FEES, FINES AND OTHER EXPENSES INCURRED BY THE STATE FOR VOLPICELLI'S CASE(S) IN CR98-2160, CR02-0147, & CR02-0148. TO DATE, THE RESPONDENTS HAVE NOT FILED EITHER A RESPONSE OR OPPOSITION TO EITHER MOTION.

ON MARCH 16, 2021, UPON AN ORDER OF RECALL, THE MATTER WAS REASSIGNED FROM DEPARTMENT 10 TO DEPARTMENT 9.

THE REVIEWING COURT ACKNOWLEDGED THAT (1) VOLPICELLI CITED NUMEROUS FINES, FEES AND OTHER COSTS ASSOCIATED WITH EACH CASE'S JUDGMENT OF CONVICTIONS; (2) HE IS UNABLE TO MAKE PAYMENTS NOW AND IN THE FUTURE, AND (3) HIS MOTION REQUESTS THE ELIMINATION OF ALL SUCH FEES IN THE RESPECTIVE CASES WITHIN

THE COURT'S JURISDICTION.

ON JUNE 10, 2024, THE COURT DENIED THE MOTION CONTENDING THAT (1) VOLIKENIS' MOTION AMOUNTED TO A CHALLENGE AS TO THE CASES' JUDGMENTS OF CONVICTION, (2) HE IS TIME BARRED FROM ANY SUCH CHALLENGES; AND (3), THIS PLEADING FAILS TO CITE ANY LEGAL AUTHORITY WHICH WOULD ALLOW THE COURT TO CONSIDER OR GRANT THE RELIEF SOUGHT.

### III SUMMARY OF ARGUMENTS

VOLIKENIS ASSERTS THAT THE DISTRICT COURT MISAPPLIED THE FACTS AND CIRCUMSTANCES OF THIS PLEADING. THIS INCLUDES, BUT IS NOT LIMITED TO: (1) THE FACT THAT HE IS NOT CHALLENGING THE JUDGMENTS OF CONVICTIONS SPECIFIC TO THE JUSTIFICATION AND IMPOSITION OF ANY AND ALL FEES AT SENTENCING; (2) THAT THERE IS A STATUTE WHICH ALLOWS THE DISTRICT COURT TO MODIFY FINANCIAL OBLIGATIONS, IN PART OR IN FULL, AS TO THE RESPECTIVE JUDGMENTS OF CONVICTION; AND (3) THAT THIS COURT'S SPECIFICALLY DEPARTMENT 10 PREVIOUSLY EXEMPTED FEES TO VOLIKENIS' CURRENT CASE IN CRO3-1263 DURING 2013. AS SUCH, IT WOULD BE AN ABUSE OF DISCRETION TO NOT PROVIDE RELIEF

TO VOLPICHINI EITHER IN PART OR IN FULL.

#### IV SUPPORTING FACTS AND ARGUMENTS

A. THE DISTRICT COURT'S RATIONALE TO DENY RELEASE IS BASED UPON A MISAPPREHENSION OF FACTS AND CIRCUMSTANCES.

(1) VOLPICHINI IS NOT CHALLENGING HIS JUDGMENTS OF CONVICTIONS SPECIFIC TO THE JUSTIFICATION OR IMPOSITION OF THE IMPRISONED FEES FOR RELEASE.

VOLPICHINI HAS NOT POSSED THE PRISON AS A MODAL TO CAREER AND STRUCTURE SERVICE, OR VIA A WRIT. HIS MOTION SEEKS RELEASE FROM THE FINANCIAL OBLIGATIONS WITHIN THREE (3)

DIFFERENT JUDGMENTS OF CONVICTION WHICH EXPIRED UPWARDS OF AT LEAST TWO (2) DECADES AGO.

(4) VOLPICHINI HAS INDICATED THE CIRCUMSTANCES IN HIS LIFE WHICH PRECLUDE HIS ABILITY TO SATISFY THE FINANCIAL OBLIGATIONS WITHIN THE EXPIRED CASES. OVER THE PAST TWO (2) DECADES OF CONTINUOUS CUSTODY, HE HAS SATISFIED ONLY A FEW THOUSAND DOLLARS OF THE ALMOST \$26,000 IN

Fines, Fees, Restitution and other Expenses  
 Resulting to him of his Arguments of  
 Conviction. At his eventual Release, his  
 Disabilities and Meager Income from  
 Social Security will Not change his situation.

B. Valenzuela cited NRS 17P.3925(1) as Legal  
 Authority for the Court to Consider and  
 Grant Relief as to Two (2) Public Defender  
 Reimbursement Fees in Two (2) of the three  
 aforementioned cases.

(1) NRS 17P.3925(1) provides Safeguards to  
 prevent an indigent Defendant from being  
 Required to pay for his Defense's expenses  
 to the State.

Therein, the Statute allows for a District  
 Court to Consider the Defendant's Financial  
 Resources and the Burden the obligation will  
 cause. Said Statute also allows a Petitioner  
 to Motion the District Court for Relief  
 from any such Reimbursement at any time.  
Taylor v. State, 903 P2d 805, 809 (Citing  
The Fuller Standard in Fuller v Oregon,  
 94 Sct 2116 (1974))

- (2) N.J.S. 17B.1153 provides the Court Authority to Modify in Part, or in Full, the Terms of Any and All Fines, Fees, Restitution, as well as Any Other Fiscal Expenses to Accommodate a Petitioner's Life Circumstances.

Within the aforementioned case, TAYLOR v STATE, the Court not only reduced the reimbursement of fees for Taylor's defense, but modified fines as well.

C. THE STATE IS SILENT AS TO THE MATTER OF Volpicelli's Request for Relief.

- (1) THE DISTRICT COURT SHOULD INTERPRET THE STATE'S SILENCE ON THE MATTER AS A SIGN OF ACQUIESCENCE, AND/OR CONFESSION OF ERROR.

D. JUDGE SATTREK ACKNOWLEDGED Volpicelli's circumstances and reduction of the fees requested in a similar styled Motion in 2013!

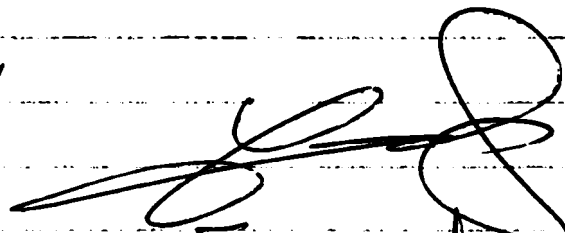
As such, it would be an ABUSE OF DISCRETION if this Court's RATIONALE FOR DENYING SIMILAR Relief in these expired cases APPEARED ARBITRARY OR CAPRICIOUS, AND W/FEATHER

THE DENIAL FOR RELIEF EXCEEDED THE BOUNDS  
OF LAW AND REASON. CLAYTON V STATE, 121  
P3d 582, 585 (2008).

## II Relief Sought:

BASED ON THE FOREGOING, THE COURT SHOULD  
RECONSIDER ITS DECISION TO DENY VOLUNTARY  
RELIEF, IN PART OR IN FULL. THE INSTANT MOTION  
PURSUANT TO NRCJ 59 ASKS FOR A  
RECONSIDERATION IF A COURT'S PRIOR RULING  
CONSTITUTES A MISAPPROPRIATION OF THE PETITIONER'S  
CLAIMS AND CIRCUMSTANCES, SO AS TO PREVENT  
A MISADMINISTRATION OF JUSTICE.

DATED this 17, DAY  
OF JUNE, 2021

  
Terene V. Varkent

Defendant in Prison

#79505 elce

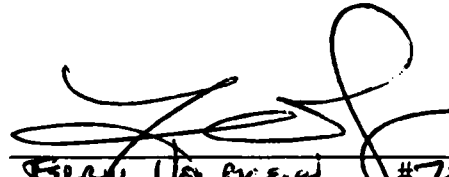
1200 PRISON ROAD

Lowell, NV 89419

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the  
 foregoing Motion For Reconsideration  
 to the below address(es) on this 17 day of JUNE,  
 2021, by placing same in the U.S. Mail via prison law library  
 staff, pursuant to NRCP 5(b):

WASHOE COUNTY  
 DISTRICT ATTORNEY  
 75 CANT ST  
 RENO, NV 89501


  
Philip D. Green #79845  
 Lovelock Correctional Center  
 1200 Prison Road  
 Lovelock, Nevada 89419

Defendant In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding  
Motion For Reconsideration filed in  
 District Court Case No. 98-2160  
02-0147  
02-0147 does not contain the  
 social security number of any person.

Dated this 17 day of JUNE, 2021

  
Philip D. Green  
Defendant In Pro Se



**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-09-10 13:04:25.863.  
**KATHERINE LYON, ESQ.** - Notification received on 2021-09-10 13:04:25.966.  
**ZACH YOUNG, ESQ.** - Notification received on 2021-09-10 13:04:25.89.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2021-09-10 13:04:25.81.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

09-10-2021:13:03:16

Clerk Accepted:

09-10-2021:13:03:54

Court:

Second Judicial District Court - State of Nevada

Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Request for Submission

Filed By:

Deputy Clerk KHudson

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

ZACH YOUNG, ESQ.

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA  
FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

CODE 2540

**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: 10**

**FERRILL J. VOLPICELLI,**

**Defendant.**

**/**

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that on September 10, 2021, the Court entered a decision or order in this matter, a true and correct copy of which is attached hereto.

Dated September 13, 2021.

**ALICIA LERUD**

**Clerk of the Court**

**/s/N. Mason**

**N. Mason-Deputy Clerk**

**CERTIFICATE OF SERVICE**

Case No. CR02-0147

Pursuant to NRCP 5 (b), I certify that I am an employee of the Second Judicial District Court; that on September 13, 2021, I electronically filed the Notice of Entry of Order with the Court System which will send a notice of electronic filing to the following:

JENNIFER P. NOBLE, ESQ. for STATE OF NEVADA  
KATHERINE H. LYON, ESQ. for STATE OF NEVADA  
DIV. OF PAROLE & PROBATION

I further certify that on September 13, 2021, I deposited in the Washoe County mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the attached document, addressed to:

Attorney General's Office  
100 N. Carson Street  
Carson City, NV 89701-4717

Ferrill J. Volpicelli (#79565)  
Lovelock Correctional Center  
1200 Prison Rd.  
Lovelock, NV 89419

The undersigned does hereby affirm that pursuant to NRS 239B.030 and NRS 603A.040, the preceding document does not contain the personal information of any person.

Dated September 13, 2021.

/s/N. Mason  
N. Mason- Deputy Clerk

3025

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

THE STATE OF NEVADA,

Plaintiff,

vs.

FERRILL J. VOLPICELLI,

Defendant.

Case No.: CR02-0147

Dept. No.: 10

**ORDER GRANTING IN PART AND DENYING IN PART  
DEFENDANT'S MOTION FOR RECONSIDERATION**

On January 8, 2021, Defendant FERRILL J. VOLPICELLI filed a *Motion for Elimination of Fees*, wherein Defendant alleged indigency and sought the elimination of all court-imposed fees for three cases within this Court's jurisdiction (CR98-2160, CR02-0147, and CR02-0148).

On June 10, 2021, the Court entered an *Order Denying Defendant's Motion for Elimination of Fees* ("Order"). The Court held that Defendant's motion amounted to a challenge of the *Amended Judgment* entered on March 2, 2015, where the fees were ordered. Additionally, the Court found that Defendant failed to provide any legal authority that would allow the Court to revise the Amended Judgment or eliminate the fees.

On June 24, 2021, Defendant filed a *Motion for Reconsideration* ("Motion"). To date, no opposition has been filed. On July 6, 2021, Defendant submitted the Motion for the Court's consideration.

In the Motion, Defendant contends that the Court misapprehended Defendant's motion for elimination of fees. Defendant contends he was not challenging the Judgment or terms of his sentence. Motion 4:9-11. Rather, Defendant was seeking to eliminate fees even in light of a valid sentence. In support, Defendant argues NRS 178.3975, NRS 176.1853, and *Taylor v. State*, 903 P.2d 805, 809 (Nev. 1995), provide the Court with authority to eliminate his fees.

In reviewing the Motion, the Court will provide Defendant with the benefit of the doubt and reconsider Defendant's motion for elimination of fees as one not seeking to challenge the judgment of conviction, but rather to waive previously sentenced fees that now impose economic hardship. Looking to the legal authorities cited by Defendant, the Court finds that only NRS 178.3975(3) may provide Defendant with some of the relief sought.

NRS 178.3975(3) allows a defendant experiencing manifest hardship to petition the court for remission of fees related to state-provided legal representation and provides as follows:

A defendant who has been ordered to pay expenses of the defendant's defense and who is not willfully or without good cause in default in the payment thereof may at any time petition the court which ordered the payment for remission of the payment or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due or modify the method of payment.

NRS 178.3975(3).

In the instant case, the Amended Judgment ordered Defendant to, among other things<sup>1</sup>, reimburse Washoe County \$1,000 for legal representation by the Washoe County Public Defender's Office. However, Defendant seeks remission of such fees, stating that, "at no point in time will [he] be able to make payments as to his indebtedness to society."

---

<sup>1</sup> The Amended Judgment also included a \$5,000 fine, a \$25 administrative assessment fee, and an \$800 psychosexual evaluation fee. However, Defendant has provided no legal authority for the Court to remit these categories of fees.

Motion 3. Defendant states that he “suffers from age related ailments which preclude his ability to earn any money during custody” and anticipates a social security income of “less than \$800 per month at his eventual release.” Motion for Elimination of Fees, pp. 2-3. Defendant estimates his aggregate indebtedness to society is well over \$200,000, including case-related fines and fees, child support, and taxes. *Id.* at 2.

While the acknowledging the enormity of Defendant’s financial burden, the Court is unable to make the findings required by NRS 178.3975(3) to grant remission. Defendant has not provided enough information for the Court to find that he is not willfully or without good cause in default in the payment of the fees. Additionally, Defendant has failed to demonstrate how payment would impose manifest hardship on Defendant or Defendant’s immediate family. Pursuant to NRS 178.3975(3), the Court must make both findings before remitting any fees associated with Defendant’s legal representation. Although Defendant estimates his debts (not including his \$1,000 legal representation fees) to surpass \$200,000, Defendant fails to provide any estimates of expenses (including toward repayment of \$200,000 debt) that demonstrate manifest hardship would be created by payment toward the \$1,000 legal representation fees.

Accordingly, upon reconsideration of Defendant’s motion for elimination of fees, the Court orders that motion DENIED.

IT IS SO ORDERED.

Dated this 10th day of September, 2021.

  
DISTRICT JUDGE



**CERTIFICATE OF SERVICE**

CASE NO.: CR02-0147

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, COUNTY OF WASHOE; that on the 10th day of September, 2021, I electronically filed the foregoing **ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION FOR RECONSIDERATION** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

**Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:**

- JENNIFER NOBLE, ESQ. for STATE OF NEVADA
- DIV. OF PAROLE & PROBATION
- ZACH YOUNG, ESQ.
- KATHERINE LYON, ESQ. for STATE OF NEVADA

**Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada:**

- FERRILL JOSEPH VOLPICELLI  
#79565  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

/s/ Scott Higginbotham  
DEPT. 10 COURT CLERK

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-09-13 12:10:13.703.

**KATHERINE LYON, ESQ.** - Notification received on 2021-09-13 12:10:13.757.

**ZACH YOUNG, ESQ.** - Notification received on 2021-09-13 12:10:13.73.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-09-13 12:10:13.641.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

09-13-2021:12:09:10

Clerk Accepted:

09-13-2021:12:09:42

Court:

Second Judicial District Court - State of Nevada

Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Notice of Entry of Ord

Filed By:

Deputy Clerk NMason

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

ZACH YOUNG, ESQ.

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA  
FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

FILED

SEP 27 2021

ALICIA L. LERUD, CLERK

By: [Signature]  
DEPUTY CLERKCase No. 202-0147Dept. No. 10

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

\* \* \* \* \*

THE STATE OF NEVADA, )

Plaintiff, )

-vs- )

NOTICE OF APPEALFERRIE VOLKMAN, )

Defendant. )

NOTICE IS GIVEN that Defendant, FERRIE T. VOLKMAN,  
in pro se, hereby appeals to the Nevada Supreme Court the ORDER  
GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION  
filed/entered on or about the 10 day of SEPTEMBER, 2021,  
in the above-entitled Court.

Dated this 23 day of SEPTEMBER, 2021.

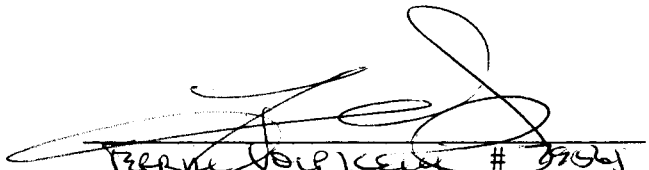
[Signature]  
FERRIE VOLKMAN # 19465  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

Defendant In Pro Se

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the below address(es) on this 23 day of September, 2024, by placing same in the U.S. Mail via prison law library staff:

WASHOE COUNTY  
DISTRICT ATTORNEY  
25 COURT ST  
RENO, NV 89501

  
Ferné J. J. J. J. # 97064  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

Defendant In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE OF APPEAL filed in District Court Case No. CNO2-0147 does not contain the social security number of any person.

Dated this 23 day of September, 2024.

  
Ferné J. J. J. J.  
Defendant In Pro Se

Code 1310

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

THE STATE OF NEVADA,

Plaintiff,

Case No. CR02-0147

vs.

Dept. No. 10

FERRILL J. VOLPICELLI,

Defendant.

---

CASE APPEAL STATEMENT

This case appeal statement is filed pursuant to NRAP 3(f).

1. Appellant is Ferrill J. Volpicelli.
2. This appeal is from an order entered by the Honorable Judge Kathleen Sigurdson.
3. Appellant is representing himself in Proper Person on appeal. The Appellant's address is:  
  
Ferrill Volpicelli #79565  
Lovelock Prison Road  
Lovelock, Nevada 89419
4. Respondent is the State of Nevada. Respondent is represented by the Washoe County District Attorney's Office:  
  
Jennifer P. Noble, Esq., SBN: 9446  
P.O. Box 11130  
Reno, Nevada 89520
5. Respondent's attorney is not licensed to practice law in Nevada: n/a

6. Appellant is represented by appointed counsel in District Court.
7. Appellant is not represented by appointed counsel on appeal.
8. Appellant was not granted leave to proceed in forma pauperis in the District Court.
9. Proceeding commenced by the filing of an Information on February 6<sup>th</sup>, 2002.
10. This is a criminal proceeding and the Appellant is appealing the Order Granting In Part and Denying in Part Defendant's Motion for Reconsideration filed September 10<sup>th</sup>, 2021.
11. The case has been the subject of a previous appeal to the Supreme Court.  
Supreme Court No.: 42603, 50595, 65192, 65786 and 67563
12. This case does not involve child custody or visitation.
13. This is not a civil case involving the possibility of a settlement.

Dated this 29th day of September, 2021.

Alicia I. Lerud  
Clerk of the Court  
By: /s/ Y.Viloria  
Y.Viloria  
Deputy Clerk



Code 1350

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

THE STATE OF NEVADA,

Plaintiff,

vs.

Case No. CR02-0147

Dept. No. 10

FERRILL J. VOLPICELLI,

Defendant.

**CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL**

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 29th day of September, 2021, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 29th day of September, 2021.

Alicia L. Lerud  
Clerk of the Court  
By /s/Y.Viloria  
Y.Viloria  
Deputy Clerk

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-09-29 10:54:05.366.

**KATHERINE LYON, ESQ.** - Notification received on 2021-09-29 10:54:05.422.

**ZACH YOUNG, ESQ.** - Notification received on 2021-09-29 10:54:05.394.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-09-29 10:54:05.303.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

09-29-2021:10:50:12

Clerk Accepted:

09-29-2021:10:52:23

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Case Appeal Statement  
Certificate of Clerk

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION  
ZACH YOUNG, ESQ.  
KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA  
JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA  
FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 83553**  
District Court Case No. CR020147

**RECEIPT FOR DOCUMENTS**

TO: Ferrill Joseph Volpicelli  
Washoe County District Attorney \ Jennifer P. Noble  
Alicia L. Lerud, Washoe District Court Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

|            |  |
|------------|--|
| 10/01/2021 | Appeal Filing fee waived - Criminal. (SC).   |
| 10/01/2021 | Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day. (SC). |

DATE: October 01, 2021

Elizabeth A. Brown, Clerk of Court  
km

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-10-06 14:05:10.565.

**KATHERINE LYON, ESQ.** - Notification received on 2021-10-06 14:05:10.621.

**ZACH YOUNG, ESQ.** - Notification received on 2021-10-06 14:05:10.593.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-10-06 14:05:10.509.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

10-06-2021:14:03:38

Clerk Accepted:

10-06-2021:14:04:23

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Supreme Court Receipt for Doc

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

ZACH YOUNG, ESQ.

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

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JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA  
FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI



## IN THE SUPREME COURT OF THE STATE OF NEVADA

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83553

**FILED**

OCT 21 2021

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

No. 83554

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83555

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

*ORDER DISMISSING APPEALS*

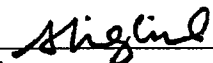
These are pro se appeals from orders denying motions for reconsideration. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.


Because no statute or court rule permits an appeal from an order denying a motion for reconsideration in a criminal matter, this court lacks jurisdiction to consider these appeals. *Phelps v. State*, 111 Nev. 1021,

1022-23, 900 P.2d 344, 344-45 (1995); *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Accordingly, this court

ORDERS these appeals DISMISSED.

 J.  
Parraguirre

 J.  
Stiglich

 J.  
Silver

cc: Hon. Kathleen A. Sigurdson, District Judge  
Ferrill Joseph Volpicelli  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-10-25 14:42:10.646.

**KATHERINE LYON, ESQ.** - Notification received on 2021-10-25 14:42:10.702.

**ZACH YOUNG, ESQ.** - Notification received on 2021-10-25 14:42:10.674.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-10-25 14:42:10.589.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***

**PROOF OF SERVICE OF ELECTRONIC FILING**

—

**A filing has been submitted to the court RE:** CR02-0147

**Judge:**

HONORABLE KATHLEEN SIGURDSON

**Official File Stamp:**

10-25-2021:14:40:58

**Clerk Accepted:**

10-25-2021:14:41:34

**Court:**

Second Judicial District Court - State of Nevada

Criminal

**Case Title:**

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

**Document(s) Submitted:**

Supreme Ct Ord Dismis Appeal

**Filed By:**

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

—

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

ZACH YOUNG, ESQ.

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA  
FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

## IN THE SUPREME COURT OF THE STATE OF NEVADA

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83553

**FILED**

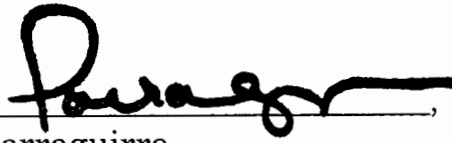
NOV 16 2021


ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DENYING REHEARING*

Rehearing denied. NRAP 40(c).

It is so ORDERED.<sup>1</sup>

, J.  
Parraguirre

, J.  
Stiglich

cc: Hon. Kathleen A. Sigurdson, District Judge  
Ferrill Joseph Volpicelli  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

<sup>1</sup> The Honorable Abbi Silver, Justice, did not participate in the decision of this matter.

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-11-19 10:20:35.722.

**KATHERINE LYON, ESQ.** - Notification received on 2021-11-19 10:20:35.778.

**ZACH YOUNG, ESQ.** - Notification received on 2021-11-19 10:20:35.749.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-11-19 10:20:35.667.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***

**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR02-0147

**Judge:**

HONORABLE KATHLEEN SIGURDSON

**Official File Stamp:**

11-19-2021:10:19:28

**Clerk Accepted:**

11-19-2021:10:20:03

**Court:**

Second Judicial District Court - State of Nevada

Criminal

**Case Title:**

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

**Document(s) Submitted:**

Supreme Court Order Denying

**Filed By:**

Deputy Clerk AZamora

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

ZACH YOUNG, ESQ.

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI



STATE OF NEVADA for STATE OF NEVADA  
FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

FILED

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

ALICIA L. LERUD  
CLERK OF THE COURTFERRE T. VOJICELL,  
PETITIONER

CRO2-0147 &amp; CRO2-0148

VS.

DEPT. 10.

STATE OF NEVADA,  
RESPONDENTMOTION TO REMIT LEGAL  
DEFENSE FEES PURSUANT TO  
NRS 178, 3975(2)

PETITIONER FERRE T. VOJICELL MOVES THE COURT FOR  
REMITTANCE OF HIS LEGAL DEFENSE FEES PURSUANT TO  
NRS 178, 3975(2).

THE INSTANT MOTION IS MADE AND BASED UPON THE  
APPLICABLE RULES OF NEVADA CIVIL PROCEDURE, NRS  
178, 3975(2), AS WELL AS THE FOREGOING POINTS AND  
AUTHORITIES WITH ACCOMPANYING EXHIBITS.

INTRODUCTION

VOJICELL IS SEEKING THE REMITTANCE OF HIS  
LEGAL DEFENSE FEES ERRONEOUSLY IMPOSED IN THE  
ABOVE CASE.



## POINTS AND AUTHORITIES

### BACKGROUND

Volkwein has been in continuous custody since 1996 and he has no financial resources, his financial capabilities to satisfy the legal defense fees will not improve in the future. He is currently serving multiple life sentences, mentally & physically disabled, and may one day share in his sentences with a Mexican Social Security Benefit of less than \$1000/month.

On May 14, 2013, Volkwein filed a Motion to, inter alia, permit his legal defense fees in CR03-1263. On May 17, 2013, the State filed a Non-opposition Response to said Petitionance of the legal defense fees. On June 4, 2013, Judge Satter, in the same Department as this one, granted said Petitionance of the legal defense fees posed on Volkwein's stop work of Court Case. (Exhibits 1, 2 & 3, respectively).

### Arguments:

It would be an abuse of discretion for the Court to not permit the legal fees in this case.

Volkwein's cases in CR03-1263, CR02-0147 &



CR02-0148 were adjudicated around the same time within the Second Judicial District Court. Vociceni's financial situation has not improved since the remittance of his local defense fees in CR03-1203. Hence, it would be an abuse of discretion, if the same Department somehow sees matters differently in terms of satisfying the requisite findings, to not remit the local defense fees within CR02-0147 & CR02-0148 as well. (An abuse of discretion occurs if relief appears arbitrary or capricious, and when the denial for relief exceeds the bounds of law and reason. Crawford v State, 121 P3d 582, 585 (2005).

NRS 178.3975(2)

The Court shall not order a Defendant to make such a payment unless the Defendant is or will be able to do so.

In determining the amount and method of payment, the Court shall take account of financial resources of the Defendant, and the nature of the burden that the payment will impose. Based upon the Court's record, Vociceni has clearly demonstrated his inability to satisfy the burden of the local



DEFENSE FEES. Even more compelling is that Volpkeni has significantly augmented the Court's Record to eluce Court Case - that the Record relied upon Judge Statler in 2013. (SEE AFFIDAVIT / EXHIBIT 4).

### Conclusion.

Based on the foregoing, as well as the Court's Record of Volpkeni's financial situation, the Court should remit Volpkeni's legal defense fees in accordance with NRS 178.3975(2), and the Department's findings in 2013.

Dated this 12 Day  
of November 2024



Fern T. Volpkeni  
#79625 @ LCC  
1200 Prison Road  
Livermore, NV 89419

Permanently Pro Se



AFFIDAVIT OF Volpneau

STATE OF NEVADA )

) SS:

COUNTY OF )

Positively )

I, Ferris T. Volpneau, the undersigned, do hereby swear that all the following statements are true and correct, to the best of my own knowledge and of my own volition.

1. My name is Ferris T. Volpneau

2. I am over 18 years of age, I reside at Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 89419. I am fully competent to make this affidavit and I have personal knowledge of the facts stated herein.

- (1) That the Leek Defense Fees are a Financial Burden to Me Now & will continue to be in the future  
 (2) That I am Devoid of any Assets Now and Do Not expect to change in the future  
 (3) That the accompanying Exhibits are True and Correct Copies of the originals.  
 (4) That I have demonstrated a Cogent Justification for Remittance of my Outstanding Leek Defense Fees pursuant to NRS 17B.397(2).

I declare under penalty of perjury that the foregoing is true and correct, and that this document is executed without benefit of a notary pursuant to NRS 208.165 and/or 28 U.S.C.A § 1746 as I am a prisoner to state custody.

Dated this 22 day of November, 2014

Exhibit 4

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing Motion To Revert Legal Defense Fees to the below address(es) on this 22 day of November, 2021, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

Washoe County  
District Attorney  
75 Court St  
Reno, NV 89501



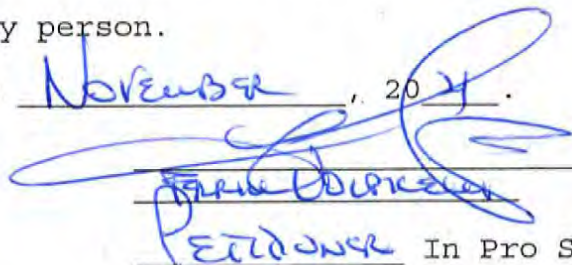
Felton Valverde # 79825  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

Felton In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding Motion To Revert Legal Defense Fees filed in District Court Case No. CR02-0147 does not contain the social security number of any person.

Dated this 22 day of November, 2021.



Felton In Pro Se

eplmuse

CR03-1263  
STATE VS FERRILL JOSEPH VO 15 Pages  
District Court 05/14/2013 10:33 AM  
Washoe County  
JURY

Document Complies with NRS 239 B030  
No Social Security Numbers

Case No. CR03-1263 Hearing date FILED  
Dept. No. 10 time 2013 MAY 14 AM 10:33

JUDICIAL DISTRICT COURT  
BY [Signature]  
CLERK

IN THE Second JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF Washoe

\*\*\*\*\*

Ferrill J Volpicelli, )  
Plaintiff, )

-VS-

WARDEN Robert Legrand et al, )  
State of Nevada, )  
Respondants, )

Motion to correct Judgment  
to Remove double Jeopardy  
And illegal Charges.  
NRS 176.555 USCAS 14  
FRE 201 NRS 47.130-47.170

Request for Amended Judgment.

Now Comes Ferrill J Volpicelli in Pro-se  
Pursuant to the Above Statutes, And Citations to  
Respectfully Request An Amended Judgment to Delete  
Duplicate DNA fee, entered in this Case, after  
Previously Submitting Same in Case\* CR98-216D,  
Filed November 3<sup>rd</sup> 1998, NRS 176.0913.

Judicial Notice FRE 201  
NRS 47.130-47.170.

The Court will also take Notice of NRS 178.3975(2)  
A Defendant shall not be ordered to pay unless the  
defendant is or will be able to do so. (emphasis)  
NRS 180.010

The Court will note Petitioner has been imprisoned  
Since 1998, And has No financial resources.

This Request made And based on Papers files records  
Copies of Attached Judgments, And Affidavit Attached hereto:

Matter Submitted Pursuant to Haines v Kerner 404 US 519(72)  
"Pro se litigants Are entitled to be liberally construed."



(b)

Legal Authorities

Petitioner Ferrill J Volpicelli, in Pro-se submits that DNA Fee. was PAID, AND submitted under the Previous Judgment.

Once submitted it does not have to be repeated AND Constitutes Abuse of discretion to order it AGAIN.

Petitioner Submits he has Paid for it AGAIN, AND Now Requests the Court order his funds returned.

Additionally, Counsel Cost for Representation NRS 178,397.5 Subsection(2) States:

The Court Shall not order a defendant to make Such a Payment unless the defendant is or will be able to do so.

In determining the amount AND method of Payment, the Court Shall take account of financial resources of the defendant, AND the nature of the burden that the Payment will impose.

Petitioner has been in Continuous Custody Since 1998, AND has No Resources.

The District Court abuses it's discretion, in making error of Law. Carter & Bell v Hartman Corp. 9% US 384,402 110 SET 2447 (90)

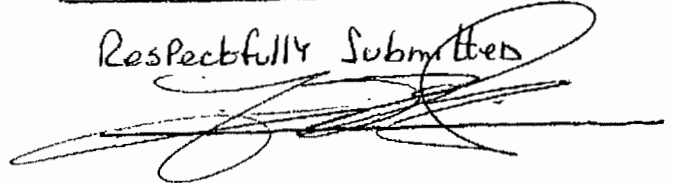
(c)

\* Conclusion \*

Petitioner Ferrill Volpicelli in Pro se, Requests Arrest of Judgment, in so far AS DNA Fee's AND Counsel Fee's NRS 176,091.3 NRS 178,397.5(2) AS the DNA Fee's Are Double Jeopardy. by documentation Process.

Relief Requested, if Granted is also Requested to be Served on the Nevada Department of Corrections, AND other administrative Agencies, AS needed NRS 233B.030 Susc et seq. by Amended Judgment.

Respectfully Submitted



AFFIDAVIT OF Ferrill Volpicelli

STATE OF NEVADA )  
 ) SS:  
 COUNTY OF Pershing )

I, Ferrill Volpicelli, the undersigned, do hereby swear that all the following statements are true and correct, to the best of my own knowledge and of my own volition.

1. My name is Ferrill Volpicelli

2. I am over 18 years of age, I reside at Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 89419. I am fully competent to make this affidavit and I have personal knowledge of the facts stated herein.

(1) That As a result of NDOC Audit, AND interview, I was MADE AWARE of fee duplication of DNA Fee. And that Per Nevada Revised Statutes The Judgment in it's Current form is ILLEGAL AND Violation of Double Jeopardy

\* EXHIBITS \*

(2) Per NRS 47.130-47.170 I Certify the attached documents AS true AND correct Attachments and they Are Unredacted. (See attached 9 Pages)

(3) And that this brief, And Attachment Prepared with Assistance of fellow inmate Steve Bronstein #64697

I declare under penalty of perjury that the foregoing is true and correct, and that this document is executed without benefit of a notary pursuant to NRS 208.165 and/or 28 U.S.C.A § 1746 as I am a prisoner to state custody.

Dated this 3RD day of MAY, 2013

R. Bronstein #64697

[Signature]

**FILED**

Electronically  
05-17-2013:10:22:37 AM  
Joey Orduna Hastings  
Clerk of the Court  
Transaction # 3732580

1 CODE 3880  
2 Richard A. Gammick  
3 #001510  
4 P.O. Box 30083  
5 Reno, NV 89520-3083  
6 (775) 328-3200  
7 Attorney for Plaintiff

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

12 \* \* \*

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No. CR03-1263

15 v.

Dept. No. 10

16 FERRILL J. VOLPICELLI,

17 Defendant.

18  
19 \_\_\_\_\_/  
20 **RESPONSE TO DEFENDANT'S MOTION**  
21 **TO CORRECT JUDGMENT OF COVICTION**

22 COMES NOW, RICHARD A. GAMMICK, District Attorney, Washoe  
23 County, Nevada, by and through Christian G. Wilson, Deputy District  
24 Attorney, and hereby Responds to Defendant Ferrill Joseph  
25 Volpicelli's Motion to Correct Judgment of Conviction in CR03-1263.  
26 The State has no objection to the Court filing an Amended Judgment of  
Conviction in CR03-1263 thereby removing from the original Judgment  
of Conviction in CR03-1263 the "One Hundred Fifty Dollar (\$150.00)  
DNA testing fee", due to such DNA test and fee having already been  
ordered in the Judgment of Conviction in CR98-2160; and further, the  
State has no objection to the Court removing from said original

**Exhibit 2**

1 Judgment of Conviction in CR03-1263 the order that the defendant  
2 "reimburse the County of Washoe the sum of Five Hundred Dollars  
3 (\$500.00) for legal representation by the Washoe County Public  
4 Defender's Office". This is due to the defendant's inability to pay  
5 in accordance with NRS 178.3975(2). The State would object to any  
6 other alteration or amendment, not listed above, to the Judgment of  
7 Conviction in CR03-1263.

8 AFFIRMATION PURSUANT TO NRS 239B.030

9 The undersigned does hereby affirm that the preceding  
10 document does not contain the social security number of any person.

11 Dated this 17th day of May, 2013.

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

15 By /s/ Christian G. Wilson  
16 CHRISTIAN G. WILSON  
17 6535  
18 Deputy District Attorney  
19  
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22  
23  
24  
25  
26

**FILED**

Electronically

06-04-2013:01:19:43 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3764809

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

Case No.: CR03-1263

vs.

Dept. No.: 10

FERRILL J. VOLPICELLI,

Defendant.

**ORDER GRANTING MOTION TO CORRECT JUDGMENT OF CONVICTION**

Presently before the Court, is a Motion to Correct Judgment of Conviction filed by Defendant FERRILL J. VOLPICELLI (hereinafter "Defendant") on May 14, 2013. On May 17, 2013, Plaintiff THE STATE OF NEVADA (hereinafter "The State") filed a Response to Defendant's Motion to Correct Judgment of Conviction. On May 28, 2013, Defendant filed a Request for Submission.

The State has no objection to the Court filing an Amended Judgment of Conviction in CR03-1263 thereby removing from the original Judgment of Conviction in CR03-1263:

1. "One Hundred Fifty Dollar (\$150.00) DNA testing fee", due to such a DNA test and fee having already been ordered in the Judgment of Conviction in CR98-2160.

2. The order that the defendant "reimburse the County of Washoe the sum of Five Hundred Dollars (\$500.00) for legal representation by the Washoe County Public Defender's Office". This is due to defendant's inability to pay pursuant to NRS 178.3975 (2).

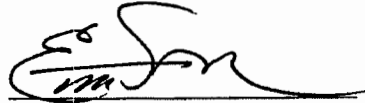
//

**Exhibit 3**

1       **NOW, THEREFORE, IT IS HEREBY ORDERED** that the "One Hundred Fifty Dollar  
2 (\$150.00) DNA testing fee" be removed from CR03-1263.

3       **IT IS FURTHER ORDERED** that the order that defendant "reimburse the County of  
4 Washoe the sum of Five Hundred Dollars (\$500.00) for legal representation by the Washoe County  
5 Public Defender's Office" be removed pursuant to NRS 178.3975 (2) from CR03-1263.

6  
7       **DATED** this 31 day of May 2013.

8   
9 ELLIOTT A. SATTLER  
10 District Judge  
11  
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1 Case No. CR02-0147/CR02-01482 Dept. No. 10

DEC -9 PM 1:02

ALICIA L. LEWIS  
CLERK OF THE COURT  
BY [Signature]3  
4  
5  
6 IN THE Second JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA7 IN AND FOR THE COUNTY OF Washoe

8 \* \* \* \* \*

9 Fernando J. Lopez )10 Petitioner )

11 -vs-

12 State of Nevada )13 Respondents )REQUEST FOR SUBMISSION  
OF MOTION14  
15 It is requested that the Motion to Revoke License  
16 Beas Pursuant to NRS 178.3975(2)17 which was filed on the 24 day of November, 2024, in  
18 the above-entitled matter, be submitted to the Court for  
19 decision.20 Dated this 6 day of December, 2024.21  
22 Fernando J. Lopez # 79065  
23 Lovelock Correctional Center  
24 1200 Prison Road  
25 Lovelock, Nevada 8941926 Petitioner In Pro Se

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing REQUEST FOR SUBMISSION OF MOTION to the below address(es) on this 6 day of December, 2024, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

WASHOE COUNTY  
DISTRICT ATTORNEY  
75 COURT ST  
RENO, NV 89501

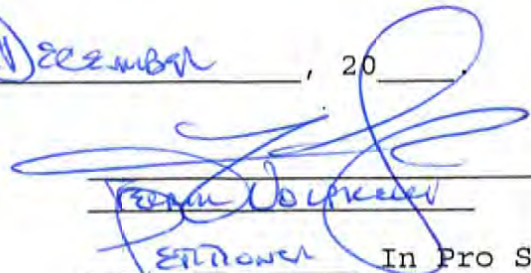


Petitioner # 7986  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419  
Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding REQUEST FOR SUBMISSION OF MOTION does not contain the social security number of any person.

Dated this 6 day of December, 2024.



Petitioner  
Petitioner In Pro Se



**IN THE SUPREME COURT OF THE STATE OF NEVADA**

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 83553**  
District Court Case No. CR020147

**CLERK'S CERTIFICATE**

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

**JUDGMENT**

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDERS these appeals DISMISSED."

Judgment, as quoted above, entered this 21st day of October, 2021.

**JUDGMENT**

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"Rehearing Denied"

Judgment, as quoted above, entered this 16th day of November, 2021.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
December 14, 2021.

Elizabeth A. Brown, Supreme Court Clerk

By: Rory Wunsch  
Deputy Clerk

## IN THE SUPREME COURT OF THE STATE OF NEVADA

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83553

**FILED**

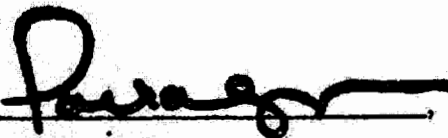
NOV 16 2021

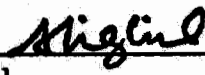
ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Yarns  
DEPUTY CLERK

**ORDER DENYING REHEARING**

Rehearing denied. NRAP 40(c).

It is so ORDERED.<sup>1</sup>

 J.  
Parraguirre

 J.  
Stiglich

cc: Hon. Kathleen A. Sigurdson, District Judge  
Ferrill Joseph Volpicelli  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

<sup>1</sup> The Honorable Abbi Silver, Justice, did not participate in the decision of this matter.

# IN THE SUPREME COURT OF THE STATE OF NEVADA

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83553

**FILED**

OCT 21 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT

No. 83554

DEPUTY CLERK

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83555

## ORDER DISMISSING APPEALS

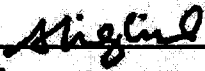
These are pro se appeals from orders denying motions for reconsideration. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

Because no statute or court rule permits an appeal from an order denying a motion for reconsideration in a criminal matter, this court lacks jurisdiction to consider these appeals. *Phelps v. State*, 111 Nev. 1021,

1022-23, 900 P.2d 344, 344-45 (1995); *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Accordingly, this court

ORDERS these appeals DISMISSED.

 J.  
Parraguirre

 J.  
Stiglich

 J.  
Silver

cc: Hon. Kathleen A. Sigurdson, District Judge  
Ferrill Joseph Volpicelli  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 83553**  
District Court Case No. CR020147

**REMITTITUR**

TO: Alicia L. Lerud, Washoe District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: December 14, 2021

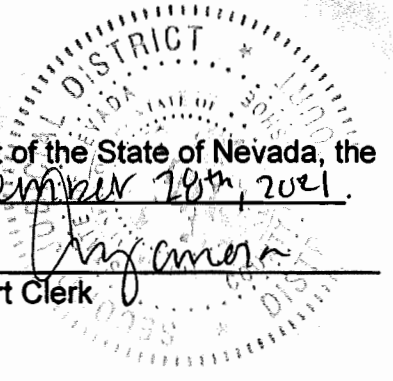
Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch  
Deputy Clerk

cc (without enclosures):  
Hon. Kathleen A. Sigurdson, District Judge  
Ferrill Joseph Volpicelli  
Washoe County District Attorney

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on December 28th, 2021.

  
\_\_\_\_\_  
District Court Clerk

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-12-29 12:01:21.381.

**KATHERINE LYON, ESQ.** - Notification received on 2021-12-29 12:01:21.437.

**ZACH YOUNG, ESQ.** - Notification received on 2021-12-29 12:01:21.409.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-12-29 12:01:21.317.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR02-0147

**Judge:**

HONORABLE KATHLEEN SIGURDSON

**Official File Stamp:**

12-29-2021:11:59:16

**Clerk Accepted:**

12-29-2021:12:00:15

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

**Document(s) Submitted:**

Supreme Ct Clk's Cert & Judg  
Supreme Court Order Denying  
Supreme Court Order  
Supreme Court Remittitur

**Filed By:**

Deputy Clerk AZamora

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

ZACH YOUNG, ESQ.

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA



3370

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

FERRILL JOSEPH VOLPICELLI,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent.

Case No.: CR02-0147

Dept. No.: 10

**ORDER RE: PETITIONER'S MOTION TO REMIT LEGAL DEFENSE FEES**

Pending before the Court is Petitioner's *Motion to Remit Legal Defense Fees Pursuant to NRS 178.3975(2)* ("Motion"), filed on November 29, 2021. To date, no response to the Motion has been filed. On December 9, 2021, Petitioner filed a *Request for Submission*, submitting the Motion for the Court's consideration.

In the Motion, Petitioner seeks "THE REMITTANCE OF HIS LEGAL DEFENSE FEES ERRONEOUSLY IMPOSED IN THE ABOVE CASE." Motion, p. 1. In support, Petitioner cites NRS 178.3975(2) and points to an order entered by the Court in one of his related cases, where the Court granted Petitioner remission of payment. *See Order Granting Motion to Correct Judgment of Conviction* (June 4, 2013) in CR03-1263.

While Petitioner's argument is persuasive, there are notable differences between the case at bar and that of CR03-1263. In CR03-1263, Petitioner had filed a *Motion to Correct Judgment* to request the remission of legal fees, and the State filed a response, indicating its non-opposition. However, in the case at bar, Petitioner has not titled his request as one

to “correct judgment,” but rather, as one “to remit legal defense fees.” Additionally, the State has not provided any response or indication of non-opposition.

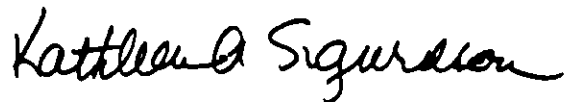
The Court will construe Petitioner’s Motion as one to correct the *Amended Judgment* entered on March 2, 2015, wherein Petitioner was ordered to reimburse the County of Washoe the sum of one thousand dollars (\$1,000.00) for legal representation by the Washoe County Public Defender’s Office.

To afford the State notice and allow for a response, IT IS HEREBY ORDERED the State shall have fourteen (14) days from the date of this order to file a response to the Motion, if any. Failure to file an opposition may be construed as an admission that the Motion is meritorious and a consent to granting the same. DCR 13(3).

IT IS FURTHER ORDERED that either party shall resubmit the Motion for consideration upon either the filing of the State’s response or the expiration of the period allotted for the State’s response.

IT IS SO ORDERED.

DATED this 8th day of February, 2022.



---

HON. KATHLEEN A. SIGURDSON  
DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

CASE NO.: CR02-0147

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, COUNTY OF WASHOE; that on the 8th day of February, 2022, I electronically filed the foregoing **ORDER RE: PETITIONER'S MOTION TO REMIT LEGAL DEFENSE FEES** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

**Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:**

- KATHERINE LYON, ESQ. for STATE OF NEVADA
- JENNIFER NOBLE, ESQ. for STATE OF NEVADA
- KEVIN NAUGHTON, ESQ. for STATE OF NEVADA
- DIV. OF PAROLE & PROBATION

**Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada:**

- FERRILL JOSEPH VOLPICELLI  
#79565  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

/s/ Michael Decker  
JUDICIAL ASSISTANT

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2022-02-08 10:30:56.492.

**KATHERINE LYON, ESQ.** - Notification received on 2022-02-08 10:30:56.564.

**ZACH YOUNG, ESQ.** - Notification received on 2022-02-08 10:30:56.524.

**DIV. OF PAROLE & PROBATION** - Notification received on 2022-02-08 10:30:56.433.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

02-08-2022:10:29:38

Clerk Accepted:

02-08-2022:10:30:21

Court:

Second Judicial District Court - State of Nevada

Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Order...

Filed By:

Judicial Asst. MDecker

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

ZACH YOUNG, ESQ.

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

STATE OF NEVADA for STATE OF NEVADA

CODE No. 2645  
CHRISTOPHER J. HICKS  
#7747  
One South Sierra Street  
Reno, Nevada 89501  
(775) 328-3200  
Attorney for Respondent

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

\*\*\*

THE STATE OF NEVADA,

Plaintiff,

Case No. CR02-0147  
CR02-0148

v.

Dept. No. 10

FERRILL J. VOLPICELLI,

Defendant.

\_\_\_\_\_/

**STATE'S OPPOSITION TO MOTION TO REMIT LEGAL DEFENSE FEES**

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS, District Attorney, and Jennifer P. Noble, Chief Appellate Deputy, and hereby opposes to the Motion to Remit Legal Defense Fees filed by Ferrill J. Volpicelli (hereinafter, "Volpicelli") on November 29, 2021. This Opposition is based on the pleadings and papers on file with this Court, and the following points and authorities.

**MEMORANDUM OF POINTS AND AUTHORITIES**

On May 14, 2013, Volpicelli filed a "Motion to Correct Judgment to Remove Double Jeopardy and Illegal Charges" in case CR03-1263. That motion was granted,

and the Court filed an Amended Judgment. *See* Order Granting Motion to Correct Judgment of Conviction filed June 4, 2013, and Amended Judgment filed June 18, 2013. The district court removed the \$150.00 fee for DNA testing in CR03-1263, **“due to such a DNA test and fee having already been ordered in the Judgment of Conviction in CR98-2160.”** *See* Order Granting Motion to Correct Judgment of Conviction. The district court also removed the provision in the judgment of conviction ordering Volpicelli to **reimburse Washoe County \$500 to reimburse the Washoe County Public Defender’s Office.** *Id.*

In CR02-0148, Volpicelli filed a motion on May 6, 2015, substantively identical to the current motion. This district court denied the motion. *See* Order Denying Motion for Remission of Legal Fees, October 12, 2015. In its Order, the district court agreed with the State that to prevail on such a motion, Volpicelli had to show 1) that he was complying with the order and not willfully in default; and 2) that the compliance with the order would work a manifest hardship on the defendant or his family. It is the **State’s position that this analysis still** applies, and the matter should not be reconsidered.

In CR02-0147, Volpicelli also filed a substantively identical motion to the current motion in CR02-0148. The district court denied the Motion on June 10, 2021. Volpicelli filed essentially the same motion again on November 29, 2021. The State opposes the Motion because Volpicelli has not shown 1) that he is complying with the order and not willfully in default; and 2) that the compliance with the order would work a manifest hardship on the defendant or his family, NRS 178.3975. Accordingly, the Motion should be denied.

/ / /



AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: February 22, 2022.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ Jennifer P. Noble  
JENNIFER P. NOBLE  
Chief Appellate Deputy

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on February 22, 2022, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Ferrill Volpicelli #79565  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

/s/ Cecilia Sixta  
CECILIA SIXTA

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2022-02-22 16:58:42.144.

**KATHERINE LYON, ESQ.** - Notification received on 2022-02-22 16:58:42.769.

**ZACH YOUNG, ESQ.** - Notification received on 2022-02-22 16:58:42.441.

**DIV. OF PAROLE & PROBATION** - Notification received on 2022-02-22 16:58:41.238.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***

**PROOF OF SERVICE OF ELECTRONIC FILING**

–

**A filing has been submitted to the court RE:** CR02-0147

**Judge:**

HONORABLE KATHLEEN SIGURDSON

**Official File Stamp:**

02-22-2022:16:34:34

**Clerk Accepted:**

02-22-2022:16:58:17

**Court:**

Second Judicial District Court - State of Nevada

Criminal

**Case Title:**

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

**Document(s) Submitted:**

Opposition to Mtn

**Filed By:**

Jennifer Patricia Noble

You may review this filing by clicking on the following link to take you to your cases.

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–

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KATHERINE H. LYON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

ZACH YOUNG, ESQ.

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

**Address:** JOHN J. KADLIC, ESQ.  
Reno City Attorney  
P.O. Box 1900  
Reno, NV 89505

STATE OF NEVADA for STATE OF NEVADA

**Address:** STATE OF NEVADA  
PO BOX 11130  
RENO, NV 89520-0027

FILED

FERRILL J. VOLPICELLI  
 79565 E LCC  
 1200 PRISON Rd  
 LOVELOCK, NV 89419

2022 MAR 10 PM 2:09

ALICIA L LERUD  
 CLERK OF THE COURT  
 BY Seaborn  
 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  
 CR02-0148

v.

FERRILL J. VOLPICELLI,  
 Defendant,

Dist. No. 10

REPLY TO STATE'S OPPOSITION  
 TO MOTION TO REMIT LEGAL  
 FEES

COMES NOW FERRILL J. VOLPICELLI, (Volicelli)  
 in and se submitting this REPLY TO STATE'S OPPOSITION  
 TO MOTION TO REMIT LEGAL FEES.

THIS REPLY IS BASED ON THE PLEADINGS AND PAPERS  
 ON THE FILE OF THIS COURT, AND THE FOLLOWING POINTS  
 AND AUTHORITIES

MEMORANDUM OF POINTS AND AUTHORITIES

I. THE STATE'S OPPOSITION IS UNAVAILING.



## A. STATE'S ARGUMENT.

THE STATE HAS PREVIOUSLY AGREED THE CHRONOLOGY OF VOLPICELLI'S LITIGATION IN THE MATTER OF SEEKING RELIEF FROM HIS LEGAL DEFENSE FEES DATING BACK TO 2013, AND RELATIVE TO CRO3-1263, CRO2-0147 & CRO2-0148. HOWEVER, THE STATE'S ARGUMENTS THAT VOLPICELLI HAS NOT SATISFIED THE CRITERIA FOR THE REMISSION OF HIS LEGAL DEFENSE FEES PURSUANT TO NRS 178.3975 IS UNPERSUASIVE.

## B. VOLPICELLI'S ARGUMENTS ARE PERSUASIVE.

(1) DEPARTMENT 10 HAS PREVIOUSLY FOUND GOOD CAUSE.

ON JUNE 4, 2013, AND RELATIVE TO CRO3-1263, DEPARTMENT 10 ELIMINATED VOLPICELLI'S LEGAL DEFENSE FEES PURSUANT TO NRS 178.3975(2) (SEE STATE'S OPPOSITION DATED FEBRUARY 25, 2002, PG 2 @ LINES 5-8, WHEREIN 'THE DISTRICT COURT ALSO REMOVED IN THE JUDGMENT OF CONVICTION ORDERING VOLPICELLI TO REIMBURSE WASHOE COUNTY \$500 TO REIMBURSE THE WASHOE COUNTY PUBLIC DEFENDERS OFFICE, ID.)



(2) Department 10 should still find Guo Guo Case

(4) THE STATE CITES NO EVIDENCE THAT VOLICENI'S SATISFACTION OF THE CRITERIA IN NRS 178.3925(2) HAS CHANGED.

(4) DEPARTMENT 9'S PREVIOUS DENIAL OF A REMISSION OF LEGAL DEFENSE FEE OBLIGATIONS WAS BASED ON A BIAS WITH JUDGE FREEMAN - AS REFERENCED IN THE MOTION TO REVOKE HIM FROM SERVING WITH ANY FURTHER LITIGATION IN VOLICENI'S CASE. (SEE MOTION TO REVOKE - ELECTRONICALLY FILED ON OR ABOUT 1-8-21.)

(4) VOLICENI HAS BEEN IN COMPLIANCE WITH NRS 178.3925.

(4) EXHIBIT 1 IS A COPY OF VOLICENI'S INMATE ACCOUNT WITH THE NEVADA DEPARTMENT OF CORRECTIONS, RELATIVE TO CRO2-0148, APPROXIMATELY \$118 HAS BEEN DEDUCTED FROM DEPOSITS OVER THE PAST 20 YEARS, THE \$118 DEDUCTION WAS APPLIED SPECIFICALLY TO THE LEGAL DEFENSE OBLIGATION IN CRO2-0148.

SINCE VOLICENI HAS NO CONTROL OVER HOW THE NEVADA DEPARTMENT OF CORRECTIONS



SATISFIES VOLPICINI'S COURT-ORDERED FINANCIAL OBLIGATIONS, THE SHOULD NOT BE PRESUMED WITH THE FACT THAT OTHER DEFENDENTS TO THIS WHATE ACCOUNT NEVER POSTED TO THE LEON DEFENSE FEES IN CROZ-PIER.

BUT MORE SIGNIFICANTLY, VOLPICINI HAS BEEN IN COMPLIANCE AND NOT WHATELY IN DEFAULT.

(b) THE LEON DEFENSE FEES WORK + UNFINISHED HANDS. EXHIBIT 2 SHOWS THE AGGREGATE FINANCIAL COURT-ORDERED FINANCIAL OBLIGATIONS FACING VOLPICINI WHILE IN CUSTODY, AS WELL AS IF, AND WHEN, HE PAYS AS A SEPENAGENTIUM.

WHILE IN CUSTODY UNDER HIS CURRENT COMMITMENT NUMBER #79605, AND OVER A PERIOD OF OVER 20 YEARS, ONLY A FEW HUNDRED DOLLARS HAVE POSTED TO HIS PUNISHING UNDERTAKINGS,

VOLPICINI WILL NEVER COME CLOSE TO SATISFYING IN FULL, ANY PART OF THE DEBT - ESPECIALLY IN VIEW OF MARCO'S LAW.

RECENT NEWARK LEGISLATIVE AMENDMENTS COMPEL THE SATISFACTION OF VICTIM UNDERTAKINGS OVER, INTER ALIA, VOLPICINI'S LEON DEFENSE FEES WHILE IN CUSTODY. V6. 1049

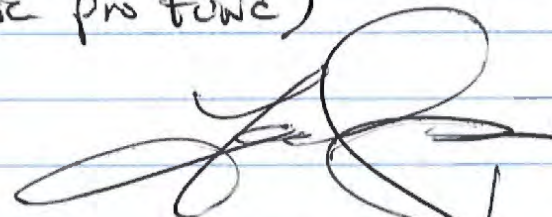


THIS SAME SCENARIO APPLIES TO NEVE  
 BEING ABLE TO SATISFY HIS LEGAL DEFENSE  
 FEES, IF AND WHEN, VOLPICELLI IS  
 COMPELLED TO ENTER SOCIETY ON PAROLE.  
 EXHIBIT 3 SHOWS THAT VOLPICELLI WILL  
 BE COMPELLED TO SURVIVE ON LESS THAN  
 \$800 PER MONTH AS A DISABLED FELON.  
 AS SUCH, ANY AND ALL POTENTIAL SATISFACTION  
 OF VOLPICELLI'S COURT-ORDERED FINANCIAL  
 OBLIGATIONS, WILL CONTINUE TO WORK A  
 HARBOR HANDSHIP.

## II CONCLUSION

BASED ON THE FOREGOING, THE COURT SHOULD  
 ELIMINATE VOLPICELLI'S LEGAL DEFENSE FEES  
 IN CR02-0147 & CR02-0148, AS IT DID SO  
 IN CR03-1263. (NONE PRO TUNE)

DATED THIS 7 DAY  
 OF MARCH, 2022

  
 Ferruccio Volpicelli  
 DEFENDANT IN PRO SE

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing REPLY TO STATES OPPOSITION to the below address(es) on this 7 day of March, 2022, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

WASHOE COUNTY  
DISTRICT ATTORNEY  
75 COURT ST  
RENO, NV 89501

FERRIS VOLKMAN # 79565  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

DEFENDANT In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding REPLY TO STATES OPPOSITION filed in District Court Case No. CR02-0147 does not contain the social security number of any person.

Dated this 7 day of March, 2022.

FERRIS VOLKMAN  
DEFENDANT In Pro Se

# **Exhibit Cover Page**

**EXHIBIT NUMBER 1**

## Transaction Summary (0079565 - FERRILL VOLPICELLI cont.): August 01, 2020 - August 31, 2020

\$400.00

Summary of Data and Time of Report

Hold Type Notes

Activity

Summary

## Department Opening Balance:

| Transaction Type       | Reference Number | Document Number       | V Document Number | DOC Sanction Date | Paid To        |
|------------------------|------------------|-----------------------|-------------------|-------------------|----------------|
| Copay                  | 10/31/2019       | 10000230418           |                   | 10/31/2019        | NDOC - Medical |
| Date                   | Description      | Check Document Number |                   | Amount            | Balance        |
| 08/01/2020             |                  |                       |                   | Opening Balance:  | \$0.00         |
| 08/13/2020 03:01:14 PM | New              |                       |                   | \$8.00            | \$8.00         |
| 08/13/2020 03:01:14 PM | Offender Payment | 10000230418           |                   | (\$8.00)          | \$0.00         |
| 08/31/2020             |                  |                       |                   | Closing Balance:  | \$0.00         |

| Transaction Type       | Reference Number | Document Number       | V Document Number | DOC Sanction Date | Paid To        |
|------------------------|------------------|-----------------------|-------------------|-------------------|----------------|
| Copay                  | 03/30/2020       | 10000230418           |                   | 3/30/2020         | NDOC - Medical |
| Date                   | Description      | Check Document Number |                   | Amount            | Balance        |
| 08/01/2020             |                  |                       |                   | Opening Balance:  | \$0.00         |
| 08/20/2020 04:15:38 PM | New              |                       |                   | \$8.00            | \$8.00         |
| 08/20/2020 04:15:38 PM | Offender Payment | 10000230418           |                   | (\$8.00)          | \$0.00         |
| 08/31/2020             |                  |                       |                   | Closing Balance:  | \$0.00         |

## Department Closing Balance:

Summary of Obligations - Current as of Date and Time of Report

| Transaction    | Paid To                   | Period To Curr | Max Per Period | Ordered     | Initial Payment | Paid To Curr | Outside Source | Total Paid | R  |
|----------------|---------------------------|----------------|----------------|-------------|-----------------|--------------|----------------|------------|----|
| on - CR03-1263 | Parole and Probation      | \$8.00         | N/A            | \$10,339.16 | Y               | \$8.00       | \$7.64         | \$15.64    | \$ |
| on - CR03-1263 | Washoe County CH          | \$0.00         | N/A            | \$175.00    | Y               | \$0.00       | \$122.78       | \$122.78   |    |
| on - CR982160  | Washoe County CH          | \$0.00         | N/A            | \$5,275.00  | Y               | \$142.09     | \$1,170.19     | \$1,312.28 |    |
| on - CR02 0148 | Washoe County Collections | \$0.00         | N/A            | \$500.00    | Y               | \$117.76     | \$0.00         | \$117.76   |    |

Total:

Department Of Corrections - DOC

9/29/2020

# **Exhibit Cover Page**

**EXHIBIT NUMBER 2**



*Points and Authorities**Background*

Volpicelli has been in **continuous** federal and state custody since 1996. He is a sexagenarian currently in custody at Lovelock Correctional Center. In addition, he will be in his **seventies** at his earliest possible release date with his multiple life sentences in CR03-1263. Volpicelli suffers from age related ailments which preclude his ability to earn any money during his custody. Undoubtedly, this factor will continue to be an issue at his eventual release from custody in 2026. As per the accompanying exhibits, he is facing an onslaught of **hundreds of thousands of dollars** of indebtedness stemming from all his cases. This includes his judgments from his criminal and civil cases relevant to his offences, taxes and divorce. He has no assets whatsoever and expects a social security<sup>1</sup> income of less than \$800 per month at his eventual release.

*Aggregate Indebtedness to Society*

| Exhibit No.       | AA <sup>2</sup> | Fines         | PD <sup>3</sup> | Psych Exam | DNA              | Restitution            | Child Support       | Taxes                   |
|-------------------|-----------------|---------------|-----------------|------------|------------------|------------------------|---------------------|-------------------------|
| CR-N-96-46        | 200             | 3000          |                 |            |                  |                        |                     |                         |
| CV-03-2634        |                 |               |                 |            |                  |                        | 30,000 <sup>4</sup> |                         |
| <b>CR98-2160</b>  | <b>25</b>       | <b>5000</b>   |                 |            | <b>250</b>       |                        |                     |                         |
| <b>CR-02-0147</b> | <b>25</b>       | <b>10,000</b> | <b>1000</b>     | <b>800</b> |                  |                        |                     |                         |
| <b>CR02-0148</b>  | <b>25</b>       |               | <b>500</b>      |            |                  |                        |                     |                         |
| CR03-1263         | 25              |               |                 |            | 150 <sup>5</sup> | 10,339.16 <sup>6</sup> |                     |                         |
| IRS               |                 |               |                 |            |                  |                        |                     | 192,240.41 <sup>7</sup> |

<sup>1</sup> Exhibit 1 is a copy of his anticipated monthly benefit from the government within a couple of months of his release in 2026.

<sup>2</sup> Administrative assessment.

<sup>3</sup> Public Defender for representation with defense.

<sup>4</sup> This is a guesstimate with accrued interest. The actual amount is on file with the Washoe County District Attorney's office.

<sup>5</sup> This duplicative DNA fee was eventually removed by Judge Sattler because the DNA fee in CR98-2160 was previously paid.

<sup>6</sup> This fee is for restitution in CR03-1263 and is not being considered in the remission of fees.

<sup>7</sup> This amount due to the IRS is a guesstimate as of 1/13/04. With accruing interest, it is likely three times that figure.

# **Exhibit Cover Page**

**EXHIBIT NUMBER 3**





Your payment would be about  
**\$791 a month**  
 at full retirement age

# 000032869 I=000000 0929 11 555



32851 1 AT 0.403



FERRILL J. VOLPICELLI  
 PO BOX 359  
 LOVELOCK NV 89419-0359

September 29, 2014

## Your Social Security Statement

Are you thinking about retirement? Are you ready for retirement?

We have tools that can help you!

- Estimate your future retirement benefits at [www.socialsecurity.gov/estimator](http://www.socialsecurity.gov/estimator)
- Apply for retirement, spouse's, Medicare or disability benefits at [www.socialsecurity.gov/applyforbenefits](http://www.socialsecurity.gov/applyforbenefits)
- And once you receive benefits, manage your benefits at [www.socialsecurity.gov/myaccount](http://www.socialsecurity.gov/myaccount)

Your *Social Security Statement* tells you about how much you or your family would receive in disability, survivor or retirement benefits. It also includes our record of your lifetime earnings. Check out your earnings history, and **let us know right away if you find an error.** This is important because we base your benefits on our record of your lifetime earnings.

Social Security benefits are not intended to be your only source of income when you retire. On average, Social Security will replace about

To view your *Social Security Statement* online anytime create a **my Social Security** account today!



**my Social Security**  
[www.socialsecurity.gov/myaccount](http://www.socialsecurity.gov/myaccount)

40 percent of your annual preretirement earnings. You will need other savings, investments, pensions or retirement accounts to live comfortably when you retire.

To view your *Statement* online anytime, create a **my Social Security** account at [www.socialsecurity.gov/myaccount](http://www.socialsecurity.gov/myaccount).

*Carolyn W. Colvin*

Carolyn W. Colvin  
 Acting Commissioner

Follow the Social Security Administration at these social media sites.



CODE No. 3860  
CHRISTOPHER J. HICKS  
#7747  
One South Sierra Street  
Reno, Nevada 89501  
(775) 328-3200  
districtattorney@da.washoecounty.gov  
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,

Case No. CR02-0147  
CR02-0148

v.

Dept. No. 10

FERRILL J. VOLPICELLI,  
Defendant.

\_\_\_\_\_ /

REQUEST FOR SUBMISSION

It is requested that the Motion to Remit Legal Defense Fees, filed on November 29, 2021, be submitted to the Court for decision.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: April 8, 2022.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ JENNIFER P. NOBLE  
JENNIFER P. NOBLE  
Chief Appellate Deputy

**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on April 8, 2022, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Ferrill Volpicelli #79565  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2022-04-08 11:13:47.889.

**KATHERINE LYON, ESQ.** - Notification received on 2022-04-08 11:13:48.389.

**ZACH YOUNG, ESQ.** - Notification received on 2022-04-08 11:13:48.108.

**DIV. OF PAROLE & PROBATION** - Notification received on 2022-04-08 11:13:47.327.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***

**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR02-0147

**Judge:**

HONORABLE KATHLEEN SIGURDSON

**Official File Stamp:**

04-08-2022:11:13:10

**Clerk Accepted:**

04-08-2022:11:13:24

**Court:**

Second Judicial District Court - State of Nevada

Criminal

**Case Title:**

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

**Document(s) Submitted:**

Request for Submission

**Filed By:**

Jennifer Patricia Noble

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

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NEVADA

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

ZACH YOUNG, ESQ.

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

**Address:** JOHN J. KADLIC, ESQ.  
Reno City Attorney  
P.O. Box 1900  
Reno, NV 89505

STATE OF NEVADA for STATE OF NEVADA

**Address:** STATE OF NEVADA  
PO BOX 11130  
RENO, NV 89520-0027

2842

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

FERRILL JOSEPH VOLPICELLI,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent.

Case No.: CR02-0147

Dept. No.: 10

**ORDER DENYING PETITIONER'S MOTION TO REMIT LEGAL DEFENSE FEES**

**I. Background**

On November 29, 2021, Petitioner filed a *Motion to Remit Legal Defense Fees* ("Motion"). The State did not file any response to the Motion. On December 8, 2021, Petitioner filed a *Request for Submission*, submitting the Motion for the Court's consideration.

On February 8, 2022, the Court entered an *Order Re: Petitioner's Motion to Remit Legal Defense Fees* ("Order"). In the Order, the Court construed the Motion as one to correct judgment and provided the State with an opportunity to respond to the Motion. On February 25, 2022, the State filed an *Opposition to Motion to Remit Legal Defense Fees* ("Opposition"). On March 10, 2022, Petitioner filed a *Reply to State's Opposition to Motion to Remit Legal Fees* ("Reply"). On April 8, 2022, the State filed a *Request for Submission*, re-submitting the Motion for the Court's consideration.

//

II. Discussion

In the Motion, Petitioner challenges the sentenced public defender attorney fees of \$1,000. See Amended Judgment (March 2, 2015). In support, Petitioner cites NRS 178.3975(2) and points to an order entered by the Court in one of his related cases, where the Court granted Petitioner remission of payment. See *Order Granting Motion to Correct Judgment of Conviction* (June 4, 2013) in Case No. CR03-1263.

First, the case at bar differs from Case No. CR03-1263 in one significant respect for purposes of correcting judgment. In Case No. CR03-1263, the State filed a response to Petitioner's motion to correct judgment and affirmatively indicated non-opposition to the motion. Here, on the other hand, the State opposes the motion to correct judgment. See *Opposition*.

Because the State does not consent to correcting the judgment, the Court next considers Petitioner's request in light of NRS 178.3975. The statute provides, in relevant part:

1. The court may order a defendant to pay all or any part of the expenses incurred by the county, city or state in providing the defendant with an attorney which are not recovered pursuant to NRS 178.398. The order may be made at the time of or after the appointment of an attorney and may direct the defendant to pay the expenses in installments.
2. The court shall not order a defendant to make such a payment unless the defendant is or will be able to do so. In determining the amount and method of payment, the court shall take account of the financial resources of the defendant and the nature of the burden that payment will impose.
3. A defendant who has been ordered to pay expenses of the defendant's defense and who is not willfully or without good cause in default in the payment thereof may at any time petition the court which ordered the payment for remission of the payment or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due or modify the method of payment.

NRS 178.3975(1)-(2).

//



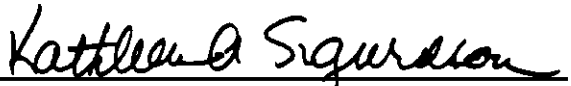
Petitioner has failed to meet the statutory requirements for remission of attorney fees. Specifically, Petitioner has not demonstrated he is “not willfully or without good cause in default” or that “the amount due will impose manifest hardship on the defendant or the defendant’s immediate family,” and such findings are required by NRS 178.3975(3). While Petitioner has attached to the Reply a transaction summary, table of “Aggregate Indebtedness to Society”, and the cover page of a Social Security Statement, these documents are not authenticated or otherwise sufficient for the Court to make the required statutory findings.

III. Conclusion

Accordingly, IT IS HEREBY ORDERED the Motion is DENIED.

IT IS SO ORDERED.

DATED this 8th day of June, 2022.

  
HON. KATHLEEN A. SIGURDSON  
DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

CASE NO.: CR02-0147

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, COUNTY OF WASHOE; that on the 9th day of June, 2022, I electronically filed the foregoing **ORDER DENYING PETITIONER'S MOTION TO REMIT LEGAL DEFENSE FEES** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

**Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:**

- JENNIFER NOBLE, ESQ.
- KATHERINE LYON, ESQ. for STATE OF NEVADA
- ZACH YOUNG, ESQ. for STATE OF NEVADA
- DIV. OF PAROLE & PROBATION

**Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada:**

- FERRILL VOLPICELLI, #79560  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

/s/ Michael Decker  
JUDICIAL ASSISTANT

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2022-06-09 06:16:27.237.

**ZACH YOUNG, ESQ.** - Notification received on 2022-06-09 06:16:26.721.

**DIV. OF PAROLE & PROBATION** - Notification received on 2022-06-09 06:16:26.174.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2022-06-09 06:16:26.44.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

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A filing has been submitted to the court RE: CR02-0147

Judge:

HONORABLE KATHLEEN SIGURDSON

Official File Stamp:

06-09-2022:06:15:52

Clerk Accepted:

06-09-2022:06:16:06

Court:

Second Judicial District Court - State of Nevada

Criminal

Case Title:

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

Document(s) Submitted:

Ord Denying Motion

Filed By:

Judicial Asst. MDecker

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DIV. OF PAROLE & PROBATION

ZACH YOUNG, ESQ.

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

FERRILL JOSEPH VOLPICELLI for FERRILL  
JOSEPH VOLPICELLI

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

**Address:** JOHN J. KADLIC, ESQ.  
Reno City Attorney  
P.O. Box 1900  
Reno, NV 89505

STATE OF NEVADA for STATE OF NEVADA

**Address:** STATE OF NEVADA  
ONE SOUTH SIERRA  
STREET  
RENO, NV 89501

Case No. CR02-0147Dept. No. 10

FILED

2022 JUN 21 PM 3:33

ALICIA L. LERUD  
CLERK OF THE COURTBY [Signature]  
DEPUTYIN THE Second JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF Washoe

\* \* \* \* \*

THE STATE OF NEVADA, )

Plaintiff, )

-vs- )

Fern Vockrey, )

Defendant. )


NOTICE OF APPEALNOTICE IS GIVEN that Defendant, Fern Vockrey,  
in pro se, hereby appeals to the Nevada Supreme Court the  
ORDER DENYING Defendant's Request to Reimburse  
filed/entered on or about the 9 day of JUNE, 2022,  
in the above-entitled Court.Dated this 14 day of JUNE, 2022.[Signature] #292561  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

Defendant In Pro Se

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the below address(es) on this 14 day of JUNE, 20 22, by placing same in the U.S. Mail via prison law library staff:

*Cesar E. Canby*  
*District Attorney*

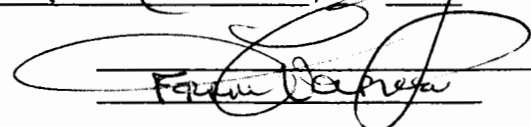
  
Frank Valencia #7906  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

Defendant In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE OF APPEAL filed in District Court Case No. CH20197 does not contain the social security number of any person.

Dated this 14 day of JUNE, 20 22.

  
Frank Valencia

Defendant In Pro Se

Code 1310

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

**FERRILL JOSEPH VOLPICELLI,**

**Petitioner,**

**vs.**

**Case No. CR02-0147**

**Dept. No. 10**

**THE STATE OF NEVADA,**

**Respondent.**

---

**CASE APPEAL STATEMENT**

This case appeal statement is filed pursuant to NRAP 3(f).

1. Appellant is Ferrill J. Volpicelli.
2. This appeal is from an order entered by the Honorable Judge Kathleen A. Sigurdson.
3. Appellant is representing himself in Proper Person on appeal. The Appellant's address is:  
  
Ferrill J. Volpicelli #79565  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419
4. Respondent is the State of Nevada. Respondent is represented by the Washoe County District Attorney's Office:  
  
Jennifer P. Noble, Esq., SBN: 9446  
P.O. Box 11130  
Reno, Nevada 89520



5. Respondent's attorney is not licensed to practice law in Nevada: NA
6. Appellant is represented by appointed counsel in District Court.
7. Appellant is not represented by appointed counsel on appeal.
8. Appellant was not granted leave to proceed in forma pauperis in the District Court.
9. Proceeding commenced by the filing of an Information on February 6<sup>th</sup>, 2002.
10. This is a criminal proceeding and the Appellant is appealing the Order Denying  
Petitioner's Motion to Remit Legal Defense Fees filed June 9<sup>th</sup>, 2022.
11. The case has been the subject of a previous appeal to the Supreme Court.  
Supreme Court No.: 42603, 50595, 65192, 65786, 67563 and 83553
12. This case does not involve child custody or visitation.
13. This is not a civil case involving the possibility of a settlement.

Dated this 22nd day of June, 2022.

Alicia L. Lerud  
Clerk of the Court  
By: /s/ Y.Viloria  
Y.Viloria  
Deputy Clerk

Code 1350

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

**FERRILL JOSEPH VOLPICELLI,**

**Petitioner,**

**vs.**

**Case No. CR02-0147**

**Dept. No. 10**

**THE STATE OF NEVADA,**

**Respondent.**

---

**CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL**

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 22nd day of June, 2022, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 22nd day of June, 2022.

Alicia L. Lerud  
Clerk of the Court  
By /s/Y.Viloria  
Y.Viloria  
Deputy Clerk

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2022-06-22 14:19:31.675.

**ZACH YOUNG, ESQ.** - Notification received on 2022-06-22 14:19:31.222.

**DIV. OF PAROLE & PROBATION** - Notification received on 2022-06-22 14:19:30.816.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2022-06-22 14:19:30.988.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
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**A filing has been submitted to the court RE:** CR02-0147

**Judge:**

HONORABLE KATHLEEN SIGURDSON

**Official File Stamp:**

06-22-2022:14:18:56

**Clerk Accepted:**

06-22-2022:14:19:09

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS FERRILL JOSEPH VOLPICELLI  
(D10)

**Document(s) Submitted:**

Case Appeal Statement  
Certificate of Clerk

**Filed By:**

Deputy Clerk YViloria

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ZACH YOUNG, ESQ.  
JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

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JOSEPH VOLPICELLI

JOHN J. KADLIC, ESQ. for FERRILL JOSEPH  
VOLPICELLI

**Address:** JOHN J. KADLIC, ESQ.  
Reno City Attorney  
P.O. Box 1900  
Reno, NV 89505

STATE OF NEVADA for STATE OF NEVADA

**Address:** STATE OF NEVADA  
ONE SOUTH SIERRA  
STREET  
RENO, NV 89501

**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 84921**  
District Court Case No. CR020147

**RECEIPT FOR DOCUMENTS**

TO: Ferrill Joseph Volpicelli  
Washoe County District Attorney \ Jennifer P. Noble  
Alicia L. Lerud, Washoe District Court Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

06/24/2022 Appeal Filing Fee waived. Criminal. (SC)

06/24/2022 Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day. (SC)

DATE: June 24, 2022

Elizabeth A. Brown, Clerk of Court  
lh