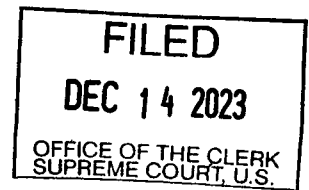


No. **23 - 7218**



IN THE  
SUPREME COURT OF THE UNITED STATES

FERRIN T. VOLPKE — PETITIONER  
(Your Name)

vs.  
BRYAN WILSON — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NEVADA SUPREME COURT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

FERRIN T. VOLPKE # 79565  
(Your Name)

1200 PRISON ROAD  
(Address)

LOVELL, NV 89419  
(City, State, Zip Code)

N/A  
(Phone Number)

QUESTION(S) PRESENTED

WHETHER PREJUDICE IS PRESUMED TO WARRANT A NEW TRIAL WHEN THE STATE DISTRICT COURT JUDGE MIDDLES WITH THE COMPOSITION OF THE VENIRE, IN CONTRAVENTION OF THE DISTRICT COURT'S LOCAL RULES, NEVADA REVISED STATUTES, AND CONGRESS' JURY SELECTION AND SERVICE ACT OF 1968? (DENIAL OF DUE PROCESS AS GUARANTEED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION)

## LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## RELATED CASES

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# TABLE OF AUTHORITIES CITED

## CASES

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| STATE   | LANDRETH V MAJAK, 251 P3d 163 (2011)     |  |
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| FEDERAL | ANDERSON V FREY, 715 F2d 1308 (8th 1983) |  |
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## STATUTES AND RULES

STATE STATUTE(S)  
NEVADA § 6.045 Ann § 6.090

FEDERAL STATUTE(S)  
28 USC § 1983  
28 USC § 1257(a)

## OTHER

NEVADA CONSTITUTION, ART 6. § 6  
U.S. CONGRESS JURY SELECTION AND  
SERVICE Act of 1968

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts:**

*N/A*

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☒ For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix **B** to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the COURT OF APPEALS OF DENSO <sup>SUPREME</sup> court appears at Appendix **B** to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was N/A.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was 4-06-23.  
A copy of that decision appears at Appendix B.

☐ A timely petition for <sup>REVIEW</sup>rehearing was thereafter denied on the following date: 11-22-23, and a copy of the order denying ~~rehearing~~ <sup>REVIEW</sup> appears at Appendix A.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

*see accompanying letters from SCOTUS*

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONSTITUTION  
5<sup>th</sup> AMENDMENT DUE PROCESS AND EQUAL PROTECTION  
14<sup>th</sup> AMENDMENT DUE PROCESS AND EQUAL PROTECTION

NEVADA CONSTITUTION ARTICLE 6 § 6

NEVADA REVISED STATUTE § 6.045 & § 6.090

U.S. CONGRESS JURY SELECTION AND SERVICE  
ACT OF 1968.



## STATEMENT OF PERTINENT FACTS.

APPELLANT VOLPKEWITZ TIMELY APPEALED FROM A JUDGMENT IN A CIVIL RIGHTS ACTION PURSUANT TO 28 USC § 1483. THE COMPLAINT ALLEGED FOURTEENTH AMENDMENT TRANSGRESSIONS AS TO VOLPKEWITZ RIGHTS TO BODILY PRIVACY AND TO BE FREE FROM SEXUAL HARASSMENT BY PRISON OFFICIALS.

APPELLANT VOLPKEWITZ ASSERTED COURT ERROR, WHEREIN HE WAS DENIED DUE PROCESS PRETRIAL, AS WELL AS PRETRIAL SUFFICIENT TO WARRANT A NEW TRIAL. THE COURT ERROR STEMMED FROM CONDUCT IN WHICH THE STATE DISTRICT COURT JUDGE PRESIDING SPECIFICALLY REQUESTED THE LOCAL COUNTY SHERIFF 'ROUND UP INDIVIDUALS' IN THE COMMUNITY TO COMPLETE A DEFICIENT APPEARANCE OF PREVIOUSLY SUBPOENAED INDIVIDUALS. AT THE BEHEST OF THE JUDGE, THE SHERIFF THEN VISITED THE LOCAL DINER FOR PROSPECTIVE JURORS BASED UPON HIS

PREFERENCE TO COMPLETE THE INADEQUATE JURY POOL FOR TRIAL.

FIRST, DAVID STERIFF WAS AN ADVERSE WITNESS SUBPOENAED BY VOLPIKENS FOR THE TRIAL.

SECOND, TWO (2) OF VOLPIKENS'S SUBPOENAED WITNESSES ON HIS BEHALF WERE IN THE DINER AT THE TIME THE STERIFF APPROACHED WHO HE WANTED TO BE ON THE JURY.

THIRD, THE ENTIRE COMMUNITY CONSISTS OF LESS THAN ONE THOUSAND MEMBERS, THE MAJORITY OF WHICH ARE SOMEHOW RELATED TO EITHER EACH OTHER, OR UNDER THE EMPLOY OF THE LOCAL STATE PRISON.

FOURTH, THE DEFENDANT IN THE CIVIL CASE HAD PREVIOUSLY WORKED FOR BOTH THE LOCAL STERIFF, AS WELL AS THE PRISON.

APPELLANT VOLPIKENS'S APPEAL ASSERTED PREJUDICE STEMMING FROM THE JUDGES CONDUCT IN EXCESS OF JUDICIAL AUTHORITY, CONTRAVENTION OF THE COURT'S LOCAL RULES, AS WELL AS STATE AND FEDERAL LAW.

THE COURT OF APPEALS ISSUED ITS ORDER OF AFFIRMATION CITING INSUFFICIENT SHOWING OF PREJUDICE, AND THAT NON-

STANDARD PRACTICES BY A TRIAL JUDGE  
ARE SOMEHOW JUSTIFIED. APPENDIX 1  
APPELLANT VOLPICELLI THEN PETITIONED  
THE NEVADA SUPREME COURT FOR  
FURTHER REVIEW - ALL TO NO AVAL.  
APPENDIX 2

## REASONS FOR CONTINUING THE WRIT

### (A) ARGUMENT(S) SUMMARY

APPELLANT VOLPICELLI ALLEGED SUBSTANTIAL  
PREJUDICE TO OBTAIN A NEW TRIAL  
BASED UPON THE PRE-TRIAL CONDUCT  
OF THE JUDGE AFOREMENTIONED, SAID  
CONDUCT TRANSGRESSED THE COURT'S LOCAL  
RULES, NEVADA REVISED STATUTES, AS  
WELL AS THE LETTER AND SPIRIT OF THE  
UNITED STATES CONGRESS JURY SELECTION  
AND SERVICES ACT OF 1968. IT WAS ALSO  
AN ABUSE OF DISCRETION BY NEVADA'S  
REVIEWING COURTS TO RENDER DETERMINATIONS  
WHICH WERE INAPPROPRIATE AND UNLAWFUL.  
THE NATION'S HIGHEST COURT SHOULD GRANT  
APPELLANT-PETITIONER VOLPICELLI HIS PETITION  
FOR A WRIT OF CERTIORARI, AND ORDER  
APPOINTMENT OF COUNSEL FOR 'FOLIO BRIEFING'.

## (B) ARGUMENTS)

VOLPICELLI ASSUERS A MANIFEST ABUSE AND/OR ARBITRARY EXERCISE OF DISCRETION CONCERNING THE NEVADA HIGH COURTS' DETERMINATIONS IN A MATTER THAT NECESSARILY REVIEW BY THIS COURT.

FIRST AND FOREMOST, THE COURT OF APPEALS, IN ITS OPINION, ACKNOWLEDGES THE DISTRICT COURT JUDGES ORDER FOR THE LOCK SHERIFF TO CONDUCT THE NEEDLESS AND IMPROPER PROCEDURE FOR FINDING POTENTIAL JURORS.

SECOND, THE AFFIRMATION ORDER CITES THAT THE DISTRICT COURT JUDGES ORDER WAS CONTRARY TO THE COURTS LOCAL RULES. SAID LOCK RULES INVOLVE AN INDEPENDENT JURY COMMISSIONER, AND THE APPROPRIATE PROCESS TO ASSURE A RANDOM SAMPLE AND/OR FAIR CROSS-SECTION OF THE COMMUNITY IS IMPLEMENTED TO CONSTITUTE THE VENUE.

ANYTHING OTHER THAN THE FOREGOING AMOUNTS TO UTILIZING AN IMPROPER PROCEDURE IN EXCESS OF THE JUDGES AUTHORITY, TO THIS, THE NEVADA

CONSTITUTION IS ABUNDANTLY CLEAR ON THE MATTER OF ACQUIRING AND/OR RETAINING AUTHORITY. RULES, REGULATION AND LAWS MUST BE SUBSTANTIALLY PERFORMED, IN THE MANNER PRESCRIBED TO GIVE VALIDITY TO THE PROCEEDINGS. STEEL V STEEL, 1 NEV. 27 (1865); NV CONSTITUTION ARTICLE 6 § 6. AS SUCH, PROCEDURAL LAW IS AS IMPORTANT AS SUBSTANTIVE LAW IN DETERMINING JURISDICTION.

FURTHER, AND UNDER GOVERNING LAW, IF THERE EXISTS THE POSSIBILITY THAT THE DISTRICT COURT JUDGE ACTED IN EXCESS OF JUDICIAL AUTHORITY IN THIS MATTER, APPELLANT VOLPKEEL'S FAILURE TO OBJECT PRE TRIAL IS OF NO IMPORTANCE. AGAIN, UNDER GOVERNING LAW, JURISDICTIONAL CONCERNS CANNOT BE WAIVED OR CONFERRED BY THE PARTIES, AND CAN BE RAISED AT ANY TIME WITHIN THE JUDICIAL PROCEEDINGS. SUCH MATTERS MAY ALSO NOT BE SUBJECT TO PACTA OR HARMLESS ERROR ANALYSIS. JURISDICTIONAL CONCERNS MAY NOT BE DEFERRED, NOR IS IT NECESSARY TO DEMONSTRATE CAUSE AND PREJUDICE TO JUSTIFY A FAILURE

(3) THE DEFENDANT IN VOLPELLO'S CASE RESIDES IN SAID COMMUNITY - AND IS EMPLOYED IN LAW ENFORCEMENT - AND PREVIOUSLY WAS EMPLOYED BY THE SAID LOCAL SHERIFF; (4) WHERE THE LOCAL SHERIFF, HIMSELF, IS A SUBROGATED WITNESS ADVISE TO VOLPELLO'S CASE. CLEARLY, THE ADVISE CONSEQUENCES TO VOLPELLO'S CASE BECAME APPARENT - BASED UPON THE DISTRICT COURT JUDGES' FACTS.

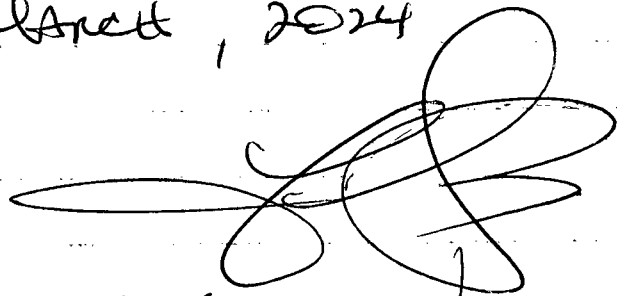
### CONCLUSION

BASED UPON THE FOREGOING, THE DISTRICT COURT JUDGES HIS DIRECTIVE TO THE LOCAL SHERIFF CONTRAVENED GOVERNING LAW ON MANY LEVELS, INCLUDING THE CONSTITUTIONAL REQUIREMENTS GUARANTEED BY CONGRESS IN ITS 1968 ACT AFFIRMATIONS BUT FOR THE NECESSARY REVIEWING COURTS TO RENDER DETERMINATIONS WHICH IGNORE THE LAW IS AN ABUSE OF DISCRETION. TO NOT CONSIDER SUCH AN ABUSE IS TO BE COMPLICIT, AND, FOR THAT SOCIETY IS LESS FORTIOR.

AS SUCH, SCORES SHOW THAT THE

INSTANT PETITION FOR A WRIT OF  
CERTIORARI, ORDER APPOINTMENT OF  
COUNSEL, AS WELL AS THE BRIEFING  
IN THIS MATTER OF FIRST IMPRESSION.

① Respectfully Submitted this 18<sup>th</sup>  
Day of March, 2024



Frank J. Volpe

Appointed in Pro Se

① Please See Appendix C and  
Appendix D, Demonstrating that  
Appellant Volpe timely  
filed the instant writ  
with SCOTUS.