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

3 ANDREW YOUNG,  
4 Appellant,  
5 vs.  
6 THE STATE OF NEVADA,  
7 Respondent.

NO. 83243

**DOCKETING STATEMENTS  
CRIMINAL APPEALS**

Electronically Filed  
Aug 09 2021 11:11 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

8  
9 **GENERAL INFORMATION**

10 **1. Judicial District:** Eighth.

11 **County:** Clark.

12 **Judge:** Honorable Jacqueline M. Bluth.

13 **District Court Case No.:** C-20-350623-1.

14 **2. If the Defendant was given a sentence:**

15 **(a) What is the sentence?** COUNT 1 – LIFE with a MINIMUM Parole  
16 Eligibility of TEN (10) YEARS; COUNT 2 - a MAXIMUM of SIXTY (60)  
17 MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)  
18 MONTHS plus a CONSECUTIVE term of SIXTY (60) MONTHS with a  
19 MINIMUM parole eligibility of TWELVE (12) MONTHS for Victim 60 Years  
20 of Age or Older, CONCURRENT with COUNT 1; COUNT 3 - a MAXIMUM  
21 of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-  
22 FOUR (24) MONTHS, CONCURRENT with COUNT 2; COUNT 4 – a  
23 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of  
24 TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNT 3; COUNT 5  
- a MAXIMUM of SIXTY(60) MONTHS with a MINIMUM Parole  
Eligibility of TWENTY- FOUR (24) MONTHS, CONCURRENT with COUNT  
4; COUNT 6 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS,

1 CONSECUTIVE to COUNTS 1, 2, 3 and 4 ; COUNT 7 – LIFE with a  
2 MINIMUM Parole Eligibility of TEN (10) YEARS, CONSECUTVE to COUNT  
3 6 ; COUNT 8 - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM  
4 parole eligibility of TWENTY-FOUR (24) MONTHS plus a CONSECUTIVE  
5 term of SIXTY (60) MONTHS with a MINIMUM parole eligibility of  
6 TWENTY-FOUR (24) MONTHS for Victim 60 Years of Age or Older,  
7 CONCURRENT with COUNT 7; COUNT 9 – LIFE with a MINIMUM Parole  
8 Eligibility of TEN (10) YEARS, CONSECUTIVE to COUNT 8; COUNT 10 - a  
9 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of  
10 TWENTY-FOUR (24) MONTHS plus a CONSECUTIVE term of SIXTY (60)  
11 MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)  
12 MONTHS for Victim 60 Years of Age or Older, CONCURRENT with COUNT  
13 9; COUNT 11 – LIFE with a MINIMUM Parole Eligibility of TEN (10)  
14 YEARS, CONSECUTIVE to COUNT 10; COUNT 12 - a MAXIMUM of  
15 SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-  
16 FOUR (24) MONTHS, CONCURRENT with COUNT 11; COUNT 13 - a  
17 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of  
18 TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNT 12; COUNT  
19 15 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS,  
20 CONSECUTIVE to COUNT 13; COUNT 16 - a MAXIMUM of SIXTY (60)  
21 MONTHS with a MINIMUM parole eligibility of TWENTY- FOUR (24)  
22 MONTHS plus a CONSECUTIVE term of SIXTY (60) MONTHS with a  
23 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS for Victim 60  
24 Years of Age or Older, CONCURRENT with COUNT 15; COUNT 17 - LIFE  
with a MINIMUM Parole Eligibility of TEN (10) YEARS, CONSECUTIVE to  
COUNT 16; COUNT 18 – a MAXIMUM of SIXTY (60) MONTHS with a  
MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS,  
CONCURRENT with COUNT 17; COUNT 19 – a MAXIMUM of SIXTY (60)

1 MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24)  
2 MONTHS, CONCURRENT with COUNT 18; COUNT 21 - LIFE with a  
3 MINIMUM Parole Eligibility of TEN (10) YEARS, CONSECUTIVE to  
4 COUNT 19; COUNT 22 - LIFE with a MINIMUM Parole Eligibility of TEN  
5 (10) YEARS, CONSECUTIVE to COUNT 21; with THREE HUNDRED  
6 SIXTEEN (316) DAYS credit for time served; the AGGREGATE SENTENCE  
7 of LIFE with a MINIMUM parole eligibility of NINETY (90) YEARS in the  
8 Nevada Department of Corrections (NDC).

8 **(b) Has the sentence been stayed pending appeal?** No.

9 **(c) Was defendant admitted to bail pending appeal?** No.

10 **3. Was counsel in the district court appointed or retained?** Appointed.

11 **4. Attorney filing this Docketing Statement:**

12 Attorney: David R. Fischer

13 Telephone: (702) 547-3944

14 Firm: Law Office of David R. Fischer

15 Address: 400 South 4<sup>th</sup> Street, Suite 500, Las Vegas, Nevada 89101

16 Client: Andrew Young, Appellant

17 **5. Is appellate counsel appointed or retained?** Appointed

18 **6. Attorney(s) representing Respondent:**

19 Attorney: Steven B. Wolfson, Clark County District Attorney

20 Telephone: (702) 671-2700

21 Firm: Clark County District Attorney's Office

22 Address: 200 Lewis Avenue, 3<sup>rd</sup> Floor, Las Vegas, NV 89155

23 Client: The State of Nevada.

24 Attorney: Aaron Ford, Nevada Attorney General

Telephone: (775) 684-1100

Firm: Nevada Attorney General's Office

Address: 100 North Carson Street, Carson City, NV 89701

1 Client: The State of Nevada

2 **7. Nature of disposition below:** Judgment after jury verdict.

3 **8. Does this appeal raise issues concerning any of the following: death**  
4 **sentence, life sentence, juvenile offender pretrial proceedings?** Life sentence.

5 **9. Expedited appeals: The court may decide to expedite the appellate process**  
6 **in this matter. Are you in favor of proceeding in such manner?** Yes.

7 **10. Pending and prior proceedings in this court.** Appellate counsel is not aware  
8 of any other pending or prior appeals herein. Appellate counsel is unaware of an ongoing  
9 original proceedings presently or previously pending before this Court, which are related to this  
10 appeal.

11 **11. Pending and prior proceedings in other courts.** Appellate counsel is aware of  
12 ongoing litigation arising out of the same district court proceeding which originally included the  
13 20 counts at issue in this appeal. That case for 2 severed felony counts, is currently set for  
14 district court jury trial on September 13, 2021, in Department 6 of the Eighth Judicial District  
15 Court, before The Hon. Jacqueline Bluth.

16 **12. Nature of action.**

17 The incidents at issue in this appeal arise out of a criminal indictment filed originally by  
18 the State of Nevada on September 10, 2020, in District Court charging appellant with 2 felony  
19 counts which are now the subject of the still pending district court case (Indictment filed  
20 September 10, 2020). On September 23, 2020, Appellant entered Not Guilty to said indictment,  
21 and invoked his speedy trial right on that same date. On October 1, 2020, the State of Nevada  
22 filed a Superseding Indictment followed by an Amended Superseding Indictment on that same  
23 date, now charging the original 2 felony counts the subject allegations of September 10, 2020,  
24 criminal indictment, plus 22 additional felony counts for a series of alleged pocket thefts  
(unrelated modus operandi to original 2 felony counts), the subject of this appeal.<sup>1</sup> So in total,

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<sup>1</sup> Appellant's counsel reserved any objections to filing of said Amended  
Superseding Indictment subject to counsel's final review in light of the

1 Appellant now stood charged of 24 felony counts. On October 7, 2020, Appellant pleaded not  
2 guilty to all counts and renewed his request for speedy trial. The matter was set for calendar  
3 call on November 18, 2020, and the court vacated trial date and set matter for December 14,  
4 2020, status check on trial re-setting (Appellant did not waive his right to speedy trial). The  
5 case was assigned to central trial readiness conference on February 10, 2021, and all parties  
6 announced ready. The case was assigned to central calendar call on March 3, 2021, with a  
7 central jury trial date of March 8, 2021.

8 On February 22, 2021, the State of Nevada filed Notice of Intent to Seek Punishment As  
9 a Habitual Criminal Offender.

10 On February 28, 2021, Appellant through counsel motioned for severance of 2 the  
11 counts contained in the original September 10, 2020, indictment, from the remaining 22 counts  
12 added by Amended Superseding Indictment on October 1, 2020. The matter was set for a  
13 hearing on March 17, 2021.

14 Said motion was granted in district court by order dated April 6, 2021, (these 2 severed  
15 counts are the subject of the yet pending case referred to above in paragraph 11).

16 During the March 3, 2021 central calendar call the pending central jury trial date of  
17 March 8, 2020, was vacated in part due to pending severance motion set for a March 17, 2021,  
18 hearing. The other reason was that no courtroom was available.

19 On March 17, 2021, the district court judge granted Appellant's severance motion as  
20 outlined above, and the matter then went to central calendar call on April 14, 2021, and was  
21 ordered to Central Jury Trial on April 26, 2021. Appellant's speedy trial remained invoked.  
22 Further, a status check to originating district court judge was ordered for April 19, 2021, to  
23 determine order of counts/trials of now severed case. Appellant's counsel requested 2 counts,  
24 the subject of the original indictment, to proceed first. This was to reduce likelihood of

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large number of additional counts (22 in total) for a series of events  
amounting to pickpocketing, in contrast to the original counts (2 in total)  
for an alleged rock beating incident.

1 continued prejudice to Appellant's ability to receive a fair trial by ongoing delays due to the  
2 estimated trial length of one incident versus multiple incidents, or put another way, a 2-day trial  
3 instead of a 1-week trial. Also, the fact that Appellant's counsel had notice of original incident  
4 and related discovery, had had more opportunity to conduct defense investigation (despite many  
5 impossibilities created by Covid 19 crisis), and was thus most prepared to defend 2 counts  
6 stemming from one rather simple incident factually. The court ordered the reverse instead,  
7 ordering the 22 pickpocket felonies pertaining to multiple incidents to proceed first, and after  
8 yet another district court department transfer, this matter was reassigned from The Hon. Monica  
9 Trujillo, Department No. 3, to The Hon. Jacqueline Bluth, Department No. 6, by order dated  
10 April 23, 2021.

11 On March 29, 2021, the State of Nevada in an apparent attempt to confuse the defense,  
12 filed a Second Amended Superseding Indictment (sic) (District Court Doc. # 18), essentially  
13 reshuffling the counts in the 4 district court charging document, with counts 17 and 18, now  
14 taking the place of counts 23 and 24.

15 On April 26, 2021, the State of Nevada filed the fifth indictment, Third Amended  
16 Superseding Indictment (sic)(District Court Doc. #26), and on the following day, April 27,  
17 2021, the matter proceeded to day 1 of jury trial on 22 counts related to the State of Nevada's  
18 theory that Appellant is a serial pick pocket resulting Appellant's wrongful conviction on 20 of  
19 22 counts after a 4-day jury trial concluding on April 30, 2021.<sup>2</sup> The trial involved multiple  
20 instances of juror misconduct, as well as prosecutorial misconduct. Appellant invoked his right  
21 to a speedy and public trial at all times this matter was pending before district court.<sup>3</sup>

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22 <sup>2</sup> The State of Nevada conceded two counts during its rebuttal closing  
23 argument, jury convicted Appellant of all remaining 20 counts charged.

24 <sup>3</sup> By minute order dated June 22, 2021, the District Court ordered Third  
Superseding Indictment filed June 21, 2021, stricken, "as it was  
inadvertently filed." Appeal counsel never saw said pleading.

1 The District Court sentenced Appellant on June 16, 2021, and entered the Judgment of  
2 Conviction on June 29, 2021. Appellant filed a timely Notice of Appeal on July 15, 2021.

3 **13. Issues on appeal.**

4 Appellant contends that the jury verdict is not supported by sufficient evidence and that  
5 individual and cumulative errors in the trial court deprived him of his procedural and/or  
6 constitutional rights to due process. The trial and sentencing transcripts are not yet available to  
7 Appellant and he anticipates raising additional issues on appeal following further review of the  
8 trial court proceedings.

9 **14. Constitutional issues.** If the State is not a party and if this appeal challenges the  
10 constitutionality of a statute or municipal ordinance, have you notified the clerk of this court  
11 and the attorney general in accordance with NRAP 44 and NRS 30.130? Not applicable.

12 **15. Assignment to the Court of Appeals or retention in the Supreme Court.**

13 This matter should be retained by the Supreme Court pursuant to NRAP 17(b)(2)(A)6

14 **16. Issues of first-impression or of public interest.** Does this appeal present a  
15 substantial legal issue of first-impression in this jurisdiction or one affecting an important public  
16 interest? First-impression: No. Public interest: No.

17 **17. Length of trial.** If this action proceeded to trial or evidentiary hearing in the  
18 district court, how many days did the trial or evidentiary hearing last? Four (4) days.

19 **18. Oral argument.** Would you object to submission of this appeal for disposition  
20 without oral argument? No.

21 **TIMELINESS OF NOTICE OF APPEAL**

22 **19. Date district court announced decision, sentence or order appealed from:**  
23 Sentencing held on June 16, 2021.

24 **20. Date of entry of written judgment or order appealed from:** Judgment of  
Conviction entered June 29, 2021.

**21. If this appeal is from an order granting or denying a petition for a writ of  
habeas corpus, indicate the date written notice of entry of judgment or order was served  
by the district court.** Not applicable.

1 **22. If the time for filing the notice of appeal was tolled by a post judgment**  
 2 **motion, specify the type of motion, the date of filing of the motion, and the date of entry of**  
 3 **written order resolving the motion:** Not applicable.

4 **23. Date notice of appeal filed:** July 15, 2021.

5 **24. Specify statute or rule governing the time limit for the filing the notice of**  
 6 **appeal:** NRAP 4(b)(1)(A)

7 **SUBSTANTIVE APPEALABILITY**

8 **25. Specify statute, rule or other authority that grants this court to review**  
 9 **jurisdiction from:** NRS 177.015(3)

10 **VERIFICATION**

11 **I certify that the information provided in this docketing statement is true and**  
 12 **complete to the best of my knowledge, information and belief.**

13 **ANDREW YOUNG**

**DAVID R FISCHER**

14 Name of appellant

Name of counsel of record

15 August 9, 2021

**/s/ David R. Fischer**

16 Date

Signature of counsel of record

17 **CERTIFICATE OF SERVICE**

18 I HEREBY CERTIFY that on this 10th day of August, 2021, I served a true and correct  
 19 copy of the above and foregoing DOCKETING STATEMENT to the parties, first-class postage  
 20 fully prepaid thereon, by placing the same in the United States Mail at Las Vegas, Nevada,  
 21 addressed as follows:

22 STEVEN B. WOLFSON, ESQ.  
 District Attorney  
 Clark County District Attorney's Office  
 23 200 Lewis Avenue  
 24 3<sup>rd</sup> Floor  
 Las Vegas, NV 89155



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2 Nevada Attorney General's Office  
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4 ANDREW YOUNG  
ID No. 92511  
5 High Desert State Prison  
P.O. Box 650  
6 Indian Springs, NV 89070

7  
8 /s/ David R. Fischer  
DAVID R. FISCHER

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