

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

GENE ANTHONY ALLEN,  
aka Abdula Usef Ali,

Appellant,

vs.

THE STATE OF NEVADA,

Defendant.

No. 41274

JUN 27 2003

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

DOCKETING STATEMENT  
CRIMINAL APPEALS

(Including pretrial and post-conviction habeas  
corpus, and petitions for post-conviction relief)

GENERAL INFORMATION

1. Judicial District: Eighth Judicial District County: Clark  
Judge: John S. McGroarty District Ct. Docket No: C177427
2. If the defendant was given a sentence,  
(a) what is the sentence?  
Count I: 20-year sentence with a minimum 5 years until parole eligibility &  
Count II: Life with parole after a minimum of 10 years until parole eligibility  
(b) has the sentence been stayed pending appeal? No.  
(c) was the defendant admitted to bail pending appeal? No.
3. Was trial or post-conviction counsel: appointed XX or retained \_\_\_\_ ?
4. Attorney filing this docketing statement:

Attorney: William J. Taylor  
Firm: William J. Taylor, Chtd.  
Address: 723 South Third Street  
Las Vegas, Nevada 89101  
Client(s): Gene Anthony Allen

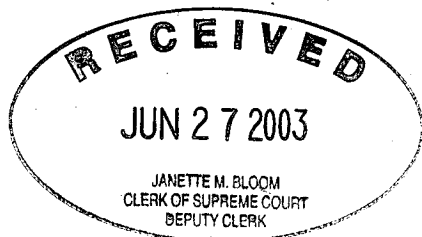
Telephone: (702) 380-4199

If this is a joint statement by multiple appellants, add the names and addresses of other  
counsel on an additional sheet accompanied by a certification that they concur in the filing  
of this statement.

5. Attorney(s) representing respondent(s):

Attorney: Craig Hendricks, Esq.  
Firm: District Attorney  
Address: 200 South Third Street  
Las Vegas, NV 89101  
Client(s): The State of Nevada

Telephone: (702) 455-4843



03-10821

6. **Nature of disposition below:**

- ☐ Judgment after bench trial
- ☐ Judgment after jury verdict

X Judgment upon guilty plea

- ☐ Grant of pretrial motion to dismiss
- ☐ Parole/Probation revocation
- ☐ Motion for new trial
  - ☐ grant      ☐ denial

X Motion to withdraw guilty plea

- ☐ grant      X denial

- ☐ Grant of pretrial habeas
- ☐ Grant of motion to suppress evidence

☐ Post-conviction relief (NRS ch. 177)

- ☐ grant      ☐ denial
- ☐ Post-conviction habeas
  - ☐ grant      ☐ denial
- ☐ Other disposition (specify)

7. **Does this appeal raise issues concerning any of the following: n/a**

- ☐ death sentence      ☐ juvenile offender
- X life sentence      ☐ pretrial proceedings

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

Yes xx      No

9. **Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal (e.g., separate appeals by co-defendants, appeal after post-conviction proceedings):

None known to Appellant or his counsel at this time.

10. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., habeas corpus proceedings in state or federal court, bifurcated proceedings against co-defendants):

N/A

11. **Nature of action.** Briefly describe the nature of the action and the result below:

Appellant was charged with one count of Sexual Assault of a minor under 14 years of age and lewdness with a child under 14. Appellant pled guilty to the charges on September 18, 2002 after the jury was impaneled, opening statements were given, and a witness had given testimony. Somewhat over one month following, Mr. Allen requested to withdraw his guilty plea and represent himself. The Court found that Mr. Allen could represent himself with stand-by counsel. However, the Court ruled against Mr. Allen in his request to withdraw his previous guilty plea.

12. **No Merit Appeal.** If appellant was the defendant below, does counsel intend to file an affidavit of no merit appeal pursuant to Anders v. California, 386 U.S. 738 (1967) and Sanchez

v. State, 85 Nev. 95, 450 P.2d 793 (1969)?

N/A

13. **Issues on appeal.** State concisely the principal issue(s) in this appeal:
- 1) The district court erred in not allowing Mr. Allen to withdraw his guilty plea and proceed with jury trial.
  - 2) Petitioner received ineffective assistance of counsel.

14. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

N/A ☒ Yes ☐ No  
If not, explain

15. **Issues of first-impression or of public interest.** Does this appeal present a substantial legal issue of first-impression in this jurisdiction or one affecting an important public interest?

First-impression: Yes ☐ No ☒  
Public interest: Yes ☐ No ☒

16. **Length of trial.** If this action proceeded to trial in the district court, how many days did the trial last?

Trial began, then the appellant pled guilty.

17. **Oral argument.** Would you object to submission of this appeal for disposition without oral argument?

Yes ☐ No ☒

#### **TIMELINESS OF NOTICE OF APPEAL**

18. **Date district court announced decision, sentence or order appealed from:** April 1, 2003.

19. **Date of entry of written judgment or order appealed from:** April 7, 2003.

(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

N/A

20. **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:** N/A

(a) Was service by delivery or by mail: (specify). N/A

21. If the time for filing the notice of appeal was tolled by a post-judgment motion,

(a) Specify the type of motion, and the date of filing of the motion: N/A

Arrest judgment Date filed

New trial Date filed

(newly discovered evidence)

New trial Date filed

(other grounds)

(b) Date of entry of written order resolving motion:

22. Date notice of appeal filed: April 15, 2003.

23. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(b), NRS 34.710, NRS 34.815, NRS 177.015(2), or other:

NRAP 9, 14, and 31 (a) (1)

### SUBSTANTIVE APPEALABILITY

24. Specify statute, rule or other authority which grants this court jurisdiction to review the judgment or order appealed from:

NRS 177.015(1)(b) XXX

NRS 34.710(3)

NRS 177.015(2) XXX

NRS 34.710(4)

NRS 177.055

NRS 34.815

NRS 177.385

Other (specify)

### VERIFICATION

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

GENE ANTHONY ALLEN  
Appellant

WILLIAM J. TAYLOR  
Counsel of Record

June 24, 2003

  
WILLIAM J. TAYLOR, ESQ.  
Nevada Bar No. 5521

### CERTIFICATE OF SERVICE

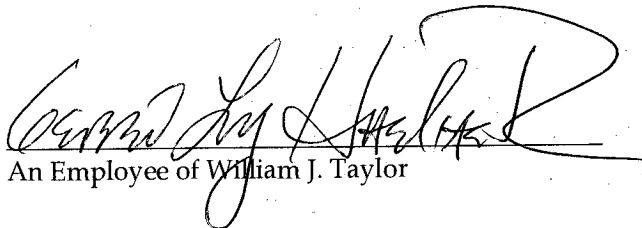
I certify that on the 24 day of June 2003, I served a copy of this completed docketing statement upon all counsel of record:

☐ by personally serving it upon him/her; or

x by mailing it by first class mail with sufficient postage prepaid to the following address(es):

Craig Hendricks, Esq.  
Deputy District Attorney  
200 South Third Street  
Las Vegas, Nevada 89155  
Attorney for Respondent

Dated this 24 day of June 2003.

  
An Employee of William J. Taylor