



In the Supreme Court of the State of Nevada

FILED

INDICATE FULL CAPTION:

SAMUEL HOWARD

Appellant(s),

vs.

THE STATE OF NEVADA

Respondent(s).

No. 42593

MAR 08 2004

JANET M. BLOOM
CLERK OF SUPREME COURT
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 County Clark
Judge Jackie Glass District Ct. Docket No. C53867

2. If the defendant was given a sentence,
(a) what is the sentence? Death for first degree murder with use of deadly weapon; 15 years consecutive 15 years for robbery with use of deadly weapon; 15 years consecutive 15 years for robbery with use of deadly weapon
(b) has the sentence been stayed pending appeal? NO
(c) was defendant admitted to bail pending appeal? NO

3. Was ~~trial~~ post-conviction counsel appointed or retained? Pro Bono

4. Attorney filing this docketing statement:

Attorney Patricia M. Erickson, Esq. Telephone (702)388-1055
Firm Patricia M. Erickson, Esq.
Address 601 South Tenth Street, #206
Las Vegas, NV 89101
Client(s) Appellant, Samuel Howard

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 James Tufteland Telephone (702)455-4711
Firm Clark County District Attorney's Office
Address 200 South Third Street
Las Vegas, NV 89155
Client(s) The State of Nevada

Attorney _____ Telephone _____
Firm MAR 08 2004
Address _____
CLERK OF SUPREME COURT
Client(s) DEPUTY CLERK

6. Nature of disposition below:

- ☐ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☐ Judgment upon guilty plea
- ☐ Grant of pretrial motion to dismiss
- ☐ Parole/Probation revocation
- ☐ Motion for new trial
 - ☐ grant ☐ denial
- ☐ Motion to withdraw guilty plea
 - ☐ grant ☐ denial

- ☐ Grant of pretrial habeas
- ☐ Grant of motion to suppress evidence
- ☐ Post-conviction relief (NRS ch. 177)
 - ☐ grant ☐ denial
- ☒ Post-conviction habeas (NRS ch. 34)
 - ☐ grant ☒ denial
- ☐ Other disposition (specify).....

7. Does this appeal raise issues concerning any of the following:

- ☒ death sentence
- ☐ life sentence
- ☐ juvenile offender
- ☐ 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.....No.....X.....

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):

Samuel Howard vs. State of Nevada, Case No. 15113 (direct appeal)
Samuel Howard vs. State of Nevada, Case No. 20368 (Post conviction appeal)
Samuel Howard vs. State of Nevada, Case No. 23386 (habeas appeal)

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):

Petition for WRit of Habeas Corpus - filed in United States District Court, Case No. CV-N-88-264-ECR
Petition for Writ of Habeas Corpus - filed in United States District Court, Case No. CV-S-93-1209-LDG

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

On December 20, 2002, Howard filed a "Petition for Writ of Habeas Corpus (Post Conviction)" in the trial court. Howard also requested appointment of counsel. The trial court denied appointment of counsel. Thereafter, the State filed a motion to dismiss which was opposed by Howard. After briefing and argument, the trial court dismissed the "Petition".

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)?

Yes.....No.....X.....

13. **Issues on appeal.** State concisely the principal issue(s) in this appeal:

To be determined upon further review of the record on appeal.

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? N/A

.....days

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 October 2, 2003

19. Date of entry of written judgment or order appeal from October 28, 2003

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

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 October 28, 2003.

(a) Was service by delivery or by mail delivery (specify).

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

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

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 November 25, 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 4(a) and NRS 34.575(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).....

NRS 34.710(3).....

NRS 177.015(2).....

NRS 34.710(4).....

NRS 177.055.....

NRS 34.815

NRS 177.385.....

Other (specify) NRS 34.575(1)

VERIFICATION

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

SAMUEL HOWARD

Name of appellant

Patricia M. Erickson

Name of counsel of record

March 5, 2004

Date



Signature of counsel of record

CERTIFICATE OF SERVICE

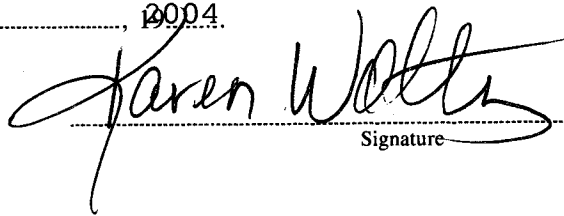
I certify that on the 5th day of March, 2004, I served a copy of this completed docketing statement upon all counsel of record:

☐ by personally serving it upon him/her; or

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

James Tufteland
Clark County District Attorney
200 South Third Street
Las Vegas, NV 89155

Dated this 5th day of March, 2004.


Signature