



In the Supreme Court of the State of Nevada

FILED

JUN 16 2004

ORIGINAL

INDICATE FULL CAPTION:

FERRILL JOSEPH VOLPICELLI

Appellant(s),

vs.

THE STATE OF NEVADA

Respondent(s).

No. 43203 BY JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

CR03-1263

DOCKETING STATEMENT CRIMINAL APPEALS

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

GENERAL INFORMATION

- Judicial District SECOND County WASHOE
Judge STEVEN P. ELLIOTT District Ct. Docket No. CR03-1263
- If the defendant was given a sentence,
 - what is the sentence? COUNT I-Conspiracy to Commit Crimes Against Property; COUNTS II-IX-Burglary; COUNT X-Unlawful Possession, Making, Forgery or Counterfeiting of Inventory Pricing Labels; Sentences for Count I Washoe County Jail for 12 months to run concurrently with the (at bottom)
 - has the sentence been stayed pending appeal? NO
 - was defendant admitted to bail pending appeal? NO
- Was trial or post-conviction counsel appointed X or retained ?

4. Attorney filing this docketing statement:

Attorney MARY LOU WILSON Telephone 775-337-0200
Firm LAW OFFICE OF MARY LOU WILSON
Address 333 MARSH AVE.
RENO, NEVADA 89509
Client(s) FERRILL JOSEPH VOLPICELLI

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 CHIEF DEPUTY DISTRICT ATTORNEY Telephone 775-337-5751
Firm WASHOE COUNTY DISTRICT ATTORNEY
Address POST OFFICE BOX 30083
RENO, NEVADA 89520
Client(s)

Attorney sentences imposed in Counts II through IX, ten years in the Nevada State Prison to run concurrently; Count X, Mr. Volpicelli be an Habitual Criminal and be punished for life with parole eligibility after ten years has been served to run consecutively to Counts II through IX. Telephone X. As to Count II,

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

(List additional counsel on separate sheet if necessary)

04-11061

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.....

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):

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):

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Jury Trial-CR03-1263

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

FERRILL JOSEPH VOLPICELLI WAS TARGETED BY THE REPEAT OFFENDER UNIT OVER A PERIOD OF TIME AND FINALLY ARRESTED WITH A CODEFENDANT THAT TESTIFIED AGAINST HIM. MR. VOLPICELLI OWNED A STORAGE UNIT FILLED WITH PROPERTY WHICH WAS RECEIVED THROUGH AN ALABORATE SCHEME OF ATTACHING A FALSE LABEL ON RETAIL PROPERTY TO RECEIVE HIGHER END PROPERTY AT A LOWER END PRICE. THEREAFTER, MR. VOLPICELLI WOULD SELL THE ALREADY REDUCED PROPERTY OVER THE INTERNET COMPUTER SYSTEM. SINCE HE HAD SEVERAL OTHER PRIOR THEFT RELATED FELONIES, THE STATE SOUGHT AND RECEIVED THE HABITUAL CRIMINAL STATUS FOR MR. VOLPICELLI. THE ISSUES ARE WHETHER HE RECEIVED A CONSTITUTIONALLY SOUND TRIAL AND WHETHER THE DISTRICT COURT ERRED IN GIVING HIM THE HABITUAL CRIMINAL

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)? STATUS.

Yes.....No..☒.....

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

WHETHER APPELLANT RECEIVED A CONSTITUTIONALLY PROTECTED TRIAL

WHETHER THE DISTRICT COURT ERRED IN FINDING APPELLANT AN HABITUAL CRIMINAL

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?

3 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 APRIL 1, 2004

19. Date of entry of written judgment or order appeal from APRIL 1, 2004

(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.....

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

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:

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 1, 2004.....

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.....

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 177.015(3).....

VERIFICATION

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

FERRILL VOLPICELLI

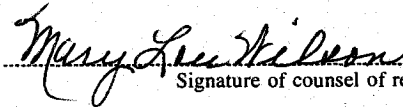
Name of appellant

MARY LOU WILSON

Name of counsel of record

JUNE 15, 2004

Date



Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 15 day of JUNE, 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):

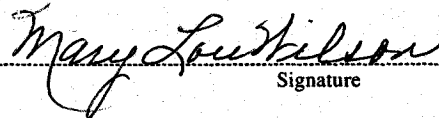
The Honorable Judge Steven P. Elliott
Second Judicial District Court, D. 10
Post Office Box 30083
Reno, Nevada 89520

Chief Appellate Deputy Gary Hatlestad
District Attorney Office
Post Office Box 30083
Reno, Nevada 89520

Janette Bloom
Clerk of the Nevada Supreme
Court
201 South Carson Street
Carson City, Nevada 89701

Mr. Ferrill Joseph Volpicelli
Inmate #79565
Northern Nevada Correctional
Post Office Box 7000
Carson City, Nevada 89702

Dated this 15 day of JUNE, 2004, 19


Signature

Brian Sandoval
Attorney General
100 North Carson Street
Carson City, Nevada
89701-4717