



In the Supreme Court of the State of Nevada

FILED

MAY 18 2004

INDICATE FULL CAPTION:

MICHAEL TODD BOTELHO,

Appellant(s),

vs.

THE STATE OF NEVADA,

Respondent (s).

No. 43247

**DOCKETING STATEMENT
CRIMINAL APPEALS**

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

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

GENERAL INFORMATION

1. Judicial District Second County Washoe
Judge Hon. Jerome Polaha District Ct. Docket No. CR03-2156
2. If the defendant was given a sentence,
 (a) what is the sentence? Four (4) terms of life in the Nevada State Prison with the possibility parole.
 (b) has the sentence been stayed pending appeal? No.
 (c) was defendant admitted to bail pending appeal? No.

3. Was trial or post-conviction counsel appointed X or retained ?

4. Attorney filing this docketing statement:

Attorney JOHN REESE PETTY Telephone (775) 337-4827
Firm Washoe County Public Defenders Office
Address 350 S. Center St., P.O. Box 30083, Reno, NV 89501
Client(s) Appellant

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.

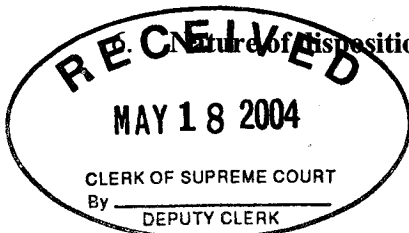
5. Attorney(s) represent respondent(s):

Attorney GARY H. HATLESTAD Telephone (775) 337-5750
Firm Washoe County District Attorneys Office
Address 75 Court St., P.O. Box 30083, Reno, NV 89501
Client(s) Respondent

Attorney Telephone
Firm
Address
Client(s)

(List additional counsel on separate sheet if necessary)

Nature of disposition below:



04-09219

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
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 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?

X 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):

n/a.

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

Appellant, Michael Todd Botelho, entered his guilty plea to one (1) count of kidnapping in the first degree and to three (3) counts of sexual assault on a child. Appellant was sentenced to life terms in the Nevada State Prison on each count with three of the counts to be served consecutively to each other and one count to be served concurrently with the others.

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 (*Ramos v. State*, 113 Nev. 1081 (1997))

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

Whether the district court abused its sentencing discretion; or

Whether the district court's sentence is contrary to established law; or

Whether the sentences imposed constitutes cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution and/or the corresponding provision of the Nevada Constitution.

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 NR 44 and NRS 30.130?

X 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

X No

Public interest: Yes

X No

16. **Length of trial.** If this action proceeded to trial in the district court, how many days did the trial last? 0 days.

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

Yes

X No

TIMELINESS OF NOTICE OF APPEAL

18. Date district court announced decision, sentence or order appealed from: April 7, 2004.

19. Date of entry of written judgment or order appeal from: April 7, 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 30, 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: NRAP 4(b)

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 177.015(2)
NRS 177.015(3) X
NRS 177.055
NRS 177.385

NRS 34.710(3)
NRS 34.710(4)
NRS 34.815
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.

Name of appellant: MICHAEL TODD BOTELHO.

Name of counsel of record: JOHN REESE PETTY, Chief Deputy Public Defender


Signature of counsel of record

Date: May 14, 2004.

CERTIFICATE OF SERVICE

I certify that on the 17th day of MAY, 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):

Gary H. Hatlestad
Chief Appellate Deputy, Washoe County District Attorney
75 Court Street
Reno, Nevada 89501 (via inter-office mail)

Dated this 17th day of MAY, 2004.


Signature