

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA
Las Vegas Drop Box
CLERK OF SUPREME COURT

MARCUS CAMPBELL,

CASE NO. 2008 FEB 20 PM 4:34
51021707-C-232549-C

Appellant,

vs.

STATE OF NEVADA,

DOCKETING STATEMENT

CRIMINAL APPEALS

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

FILED

FEB 22 2008

Respondent. /

GENERAL INFORMATION

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

1. Judicial District: Eighth Judicial District Court County: Clark County
Judge: Valerie Adair District Court Docket No. 07-C-232549-C

2. If the defendant was given a sentence,
(a) what is the sentence?

For Count One (Murder with use of a deadly weapon with the intent to promote, further, or assist a criminal gang): Term of Life with eligibility of parole after forty years plus an equal and consecutive term of life with the eligibility of parole after twenty years for the deadly weapons enhancement.

For Count Two (Attempt murder with use of a deadly weapon): Minimum of seventy-two months in Nevada Department of Corrections with a maximum term of two-hundred and forty months, plus an equal and consecutive 72/240 months for the criminal gang enhancement. Count Two to run concurrently with Count One.

For Count Three (Discharging a firearm at or into a vehicle with the intent to promote, further, or assist a criminal gang): Minimum of twelve months in the Nevada Department of Corrections with a maximum term of sixty months, plus an equal and consecutive 12/60 months for the criminal gang enhancement. Count Three to run consecutively to Counts One and Two.

(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: Marvin L. Longabaugh

Telephone: 702-967-6800

Firm: Longabaugh Law Offices

Address: 2242 Renaissance Drive, Las Vegas, Nevada, 89119

Clients: Marcus Campbell

FEB 22 2008

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

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

08-04403

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

Attorney: Catherine Cortez Masto Telephone: 775-684-1100
Firm: Attorney General
Address: 100 N. Carson Street, Carson City, NV 89701
Clients: The State of Nevada

Attorney: David Roger Telephone: 702-455-4801
Firm: Clark County District Attorney's Office
Address: 200 S. Third Street, Las Vegas, NV 89101
Clients: The State of Nevada

6. **Nature of disposition below:**

<input type="checkbox"/> Judgment after bench trial	<input type="checkbox"/> Grant of pretrial habeas
<input checked="" type="checkbox"/> Judgment after jury verdict	<input type="checkbox"/> Grant of motion to suppress evidence
<input type="checkbox"/> Judgment upon guilty plea	<input type="checkbox"/> Post-conviction relief (NRS ch. 177)
<input type="checkbox"/> Grant of pretrial motion to dismiss	<input type="checkbox"/> <input type="checkbox"/> grant <input type="checkbox"/> denial
<input type="checkbox"/> Parole/Probation revocation	<input type="checkbox"/> Post-conviction habeas (NRS ch. 34)
<input type="checkbox"/> Motion for new trial	<input type="checkbox"/> <input type="checkbox"/> grant <input type="checkbox"/> denial
<input type="checkbox"/> <input type="checkbox"/> grant <input type="checkbox"/> denial	<input type="checkbox"/> Other disposition (specify)
<input type="checkbox"/> Motion to withdraw guilty plea	
<input type="checkbox"/> <input type="checkbox"/> grant <input type="checkbox"/> denial	

7. **Does this appeal raise issues concerning any of the following:** No.

<input type="checkbox"/> death sentence	<input type="checkbox"/> juvenile offender
<input type="checkbox"/> life sentence	<input type="checkbox"/> 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 other courts.** 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

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):

Justice Court : 06-GJ-00058
District Court: 07-C-232549-C

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

Appellant was charged with Murder with use of a deadly weapon with the intent to promote, further, or assist a criminal gang; Attempt Murder with use of a deadly weapon; and Discharging Firearm at or into vehicle with the intent to promote, further, or assist a criminal gang. Appellant was represented by counsel at trial, and invoked his constitutional right to not testify. The jury convicted Appellant on all three counts. Appellant was sentenced as follows:

Count One: Term of Life with eligibility of parole after forty years plus an equal and consecutive term of life with the eligibility of parole after twenty years for the deadly weapons enhancement.

Count Two: Minimum of seventy-two months in Nevada Department of Corrections with a maximum term of two-hundred and forty months, plus an equal and consecutive 72/240 months for the criminal gang enhancement. Count Two to run concurrently with Count One.

Count Three: Minimum of twelve months in the Nevada Department of Corrections with a maximum term of sixty months, plus an equal and consecutive 12/60 months for the criminal gang enhancement. Count Three to run consecutively to Counts One and Two.

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) on this appeal:

Appellant was represented by counsel at trial. Appellant's counsel was appointed to this appeal on February 14, 2008. Transcripts will be requested February 21, 2008, and an initial meeting between Appellant and counsel will be set upon counsel's review of the transcripts.

As a result of the recent appointment to this case, Appellant's counsel is not in possession, custody, or control of any of the transcripts, files or pleadings in this case. Consequently, the issues on appeal are largely unknown to Appellant's counsel at this time.

Some issues Appellant's counsel will be exploring involve the following: the extensive testimony provided by the State's expert witness (gang expert); the fact that Appellant's mother was used to provide identity testimony during trial; and the inclusion of a separate gang member's case to create the basis for the finding that this case warranted gang enhancement.

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 **X** 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 **X**

Public interest: Yes _____ No **X**

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

One Week.

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

Yes _____ No **X**

TIMELINESS OF NOTICE OF APPEAL

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

Jury Verdict: November 14, 2007

Penalty Hearing: November 15, 2007

Sentencing: January 8, 2008

19. Date of entry of written judgment or order appeal from:

Judgment of Conviction: January 17, 2008

(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: **N/A.**

(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: **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: January 31, 2008

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).**

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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 177.055 _____
NRS 177.385 _____

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

Marcus Campbell
Name of Appellant

Marvin L. Longabaugh
Name of counsel of record

2-20-08
Date


Signature of counsel of record

CERTIFICATE OF SERVICE

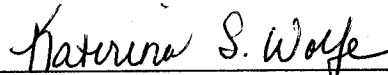
I certify that on the 20th day of February, 2008, I served a copy of this completed docketing statement upon all counsel of record:

_____ 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):

Catherine Cortez Masto
Attorney General
100 N. Carson Street
Carson City, NV 89701

David Roger
Clark County District Attorney's Office
200 ~~S. Third Street~~ Lewis Avenue
Las Vegas, NV 89101



An Employee of Longabaugh Law Offices