

● ORIGINAL ●

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRENDAN DUNCKLEY

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 52383

DOCKETING STATEMENT FOR
CRIMINAL APPEAL

FILED

NOV 24 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. K. Lindeman*
DEPUTY CLERK

DOCKETING STATEMENT FOR CRIMINAL APPEAL

THE O'MARA LAW FIRM, P.C.
WILLIAM M. O'MARA (Nevada Bar No. 00837)
DAVID C. O'MARA (Nevada Bar No. 8599)
311 East Liberty Street
Reno, NV 89501
Telephone: 775/323-1321
Facsimile: 775/323-4082
Attorneys for Appellant

RECEIVED

NOV 24 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

08-29949

1 1. Second Judicial District Court, County of Washoe. Honorable Connie J. Steinheimer.
2 Case No. CR07-1728

3 2. Appellant was sentenced to imprisonment in the Nevada Department of Prisons for
4 the maximum term of life with the minimum parole eligibility of ten (10) years for Count 1; and was
5 sentenced to imprisonment in the Nevada Department of Prisons for the maximum term of one
6 hundred twenty months with the minimum parole eligibility of twenty-four (24) months for County
7 2, which is to be served concurrently with the sentenced imposed in Count 1, with credit for four (4)
8 days time served.¹ The Appellant's sentence was not stayed pending appeal, nor has Appellant been
9 admitted to bail pending appeal.

10 3. Counsel for Appellant was appointed.

11 4. Counsel filing this docketing statement is, The O'Mara Law Firm, P.C., through
12 David C. O'Mara, Esq., (775) 323.1321, 311 E. Liberty Street, Reno, Nevada 89501.

13 5. Appellant's counsel is appointed.

14 6. Attorney representing the Respondent is the Washoe County District Attorney's
15 Office, One South Sierra Street, Reno, Nevada 89520. (775) 328.3220.

16 7. Nature of the disposition in the Second Judicial District Court was Judgment upon
17 Guilty Plea.

18 8. No. This appeal does not raise issues concerning the death sentence, juvenile
19 offender, life sentence, or pretrial proceedings.

20 9. Yes. Counsel and Appellant are in favor of an expedited process in this matter.

21 10. There are no pending or prior proceedings in the Nevada Supreme Court relating to
22 this appeal.

23 11. There are no pending or prior proceedings in any other Court.
24
25

26 ¹ The Court imposed upon Appellant the following: submit to a DNA Analysis Test for the purpose
27 of determine genetic markers, \$25.00 administrative assessment fee, \$150.00 DNA testing fee, and a
28 \$950.00 Psychosexual Evaluation Fee, and to serve a special sentence of lifetime supervision to
commence after any term of imprisonment or after any period of release on parole.

1 12. Nature of the action was the sentencing regarding Appellant criminal proceeding in
2 which he was sentenced to time in prison, instead of being afforded the opportunity for probation.

3 13. The issue on appeal is whether the Court should review the sentence imposed in this
4 case and remand for re-sentencing with instructions to strike imposing a prison term and instead
5 impose probation on both counts.

6 14. N/A. The State is a party to this action.

7 15. N/A. There are no issues of first impression or of public interest.

8 16. There was no trial on this matter as Judgment was entered pursuant to a Guilty Plea.

9 17. I would not object to submission of this appeal for disposition.

10 **TIMELINESS OF NOTICE OF APPEAL**

11 18. District Court announced its sentence on August 5, 2008.

12 19. Date of entry of written judgment or order appealed from was August 11, 2008.

13 20. N/A. This appeal is not from an order granting or denying a petition for a writ of
14 habeas corpus.

15 21. The time for filing the notice of appeal was not tolled by post judgment motion.


16 22. **Date notice of appeal filed:** On September 8, 2008, at Appellant's request.²

17 23. **Rule governing the time limit for filing the notice of appeal:** NRAP 4(b)

18 24. **Statute which grants this court jurisdiction:** NRS 177.015(3).

19
20 DATED: November 20, 2008.

THE O'MARA LAW FIRM, P.C.

21
22
23 
24 DAVID C. O'MARA

25
26
27 ² See *Mann v. State*, 118 Nev. 351, 46 P.3d 1228 (2002)(counsel must appeal if defendant expresses
28 dissatisfaction with the sentence)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

DATED: November 20, 2008.

David Collins

DAVID C. O'MARA, ESQ.
Counsel for Appellant Brendan Dunckley

CERTIFICATE OF SERVICE

I hereby certify under penalties of perjury that on this date I served a true and correct copy of the foregoing document by:

☒ Depositing for mailing, in a sealed envelope, U.S. Postage prepaid, at Reno, Nevada

☐ Personal delivery

☐ Facsimile

☐ Federal Express or other overnight delivery

☐ Messenger Service

addressed as follows:

Attorney General Catherine Cortez-Masto
100 N. Carson St.
Carson City, Nevada 89701

Richard Gammick
Washoe County District Attorney
P.O. Box 30083
Reno, Nevada 89520

DATED: November 20, 2008.

