

ORIGINAL

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IN THE SUPREME COURT OF THE STATE OF NEVADA

2009 AUG -6 PM 3:56

INDICATE FULL CAPTION:

LUIS A. HIDALGO, JR.

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 54209

DOCKETING STATEMENT
CRIMINAL APPEALS

(Including appeals from pretrial and post-conviction rulings and other requests for post-conviction relief)

FILED

AUG 10 2009

GENERAL INFORMATION

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

1. Judicial District Eighth County Clark
Judge Valerie Adair District Ct Case No. C212667/C241394

2. If the defendant was given a sentence,

(a) what is the sentence?

12 months Clark County Detention Center, Count 1 - Conspiracy to Commit a Battery w/Deadly Weapon or Conspiracy to Commit Battery with Substantial Bodily Harm;
Life w/Parole eligibility after 120 months plus equal and consecutive life w/parole eligibility after 120 months for use of Deadly Weapon, Count 2 - Second Degree Murder w/Deadly Weapon. Count 2 concurrent with Count 1

(b) has the sentence been stayed pending appeal?

No

(c) was defendant admitted to bail pending appeal?

No

3. Was counsel in the district court appointed ☐ or retained ☒ ?

4. Attorney filing this docketing statement:

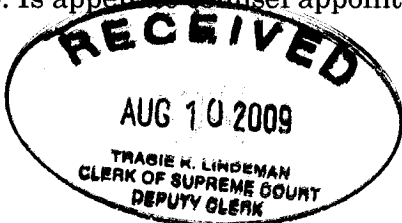
Attorney Dominic P. Gentile Telephone (702) 796-5555

Firm: Gordon Silver

Address: 3960 Howard Hughes Parkway, 9th Floor, Las Vegas, NV 89169

Client(s) Luis A. Hidalgo, Jr.

5. Is appellate counsel appointed ☒ or retained ☐ ?



09-19405

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.

6. Attorney(s) representing respondent(s):

Attorney Steven S. Owens, Chief Deputy District Attorney Telephone (702) 671-2750

Firm: Clark County District Attorney

Address: Regional Justice Center, 200 Lewis Avenue, Las Vegas, NV 89155

Client(s) The State of Nevada

Attorney _____ Telephone _____

Firm: _____

Address: _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

7. 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 habeas (NRS ch. 34)
 - ☐ grant ☐ denial
- ☒ Other disposition (specify)
 - Motion for Judgment of Acquittal
 - X Denied

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

1. Insufficiency of evidence to determine guilt beyond a reasonable doubt.
2. Failure of Court's instructions to insure due process and a fair trial.
3. Admission of surreptitious tapes against Luis A. Hidalgo, Jr. in violation of both the rules of evidence - hearsay - and the confrontation clause of the state and federal constitutions.

14. **Constitutional issues.** If the State is not a party and if this appeal challenges the constitutionality of a statute or municipal ordinance, 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 or evidentiary hearing in the district court, how many days did the trial or evidentiary hearing last?

14 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 06/23/2009

19. Date of entry of written judgment or order appeal from 07/10/2009

(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 by the district court

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

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 03/10/2009

(other grounds)

Judgment of Acquittal

Date Filed: 03/10/2009

(b) Date of entry of written order resolving motion 08/04/2009

22. Date notice of appeal filed 07/16/2009

23. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(b), NRS 34.560, NRS 34.575, NRS 177.015(2), or other

NRAP 4(b)

SUBSTANTIVE APPEALABILITY

24. Specify statute, rule or other authority that grants this court jurisdiction to review from:

NRS 177.015(1)(b) <u>x</u>	NRS 34.560 _____
NRS 177.015(1)(c) _____	NRS 34.575(1) _____
NRS 177.015(2) _____	NRS 34.575(2) _____
NRS 177.015(3) <u>x</u>	Other (specify) _____
NRS 177.055 _____	

VERIFICATION

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

Luis A. Hidalgo, Jr.

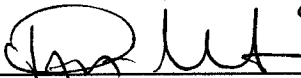
Name of appellant

08/06/2009

Date

Dominic P. Gentile

Name of counsel of record

 8357 for Dominic P. Gentile

Signature of counsel of record

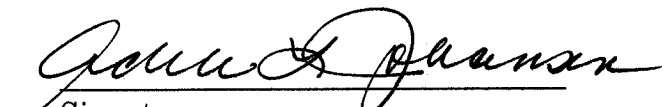
CERTIFICATE OF SERVICE

I certify that on the 6th day of Aug., 2009, 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):

Dated this 6th day of August, 2009.


Signature

Steven S. Owens
Chief Deputy District Attorney
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155