

FILED

AUG 28 2009

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

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Luis A. Hidalgo III

Appellant

v.

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)

GENERAL INFORMATION

1. Judicial District Eighth County Clark
Judge Valerie Adair District Ct Case No. C212667/C2411394

2. If the defendant was given a sentence,

(a) what is the sentence?

Count 1 - 12 months in the CCDC; Count 2- Life with a Minium Parole Eligibility of 120 months, plus an equal and consecutive term of life with a minium parole eligibility of 120 months for the use of a deadly weapon, Count 2 to run concurrent with Count 1; Count 3-to a maximum of 72 months with a minium parole eligibility of 24 months, Count 3 to run CONCURRENT with Counts 1 and 2; Count 4- to a maximum of 72 months with a minimum parole eligibility of 24 months. Count 4 to run concurrent with Counts 1, 2 and 3.

(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 John L. Arrascada Telephone 775-329-1118

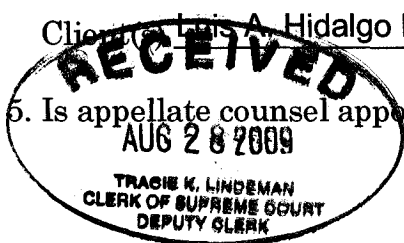
Firm: Arrascada & Arrascada

Address:

145 Ryland, Reno NV 89501

Client: Luis A. Hidalgo III

5. Is appellate counsel appointed ☒ or retained ☐ ?



119-21068

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 Ave., 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
 - ☐ grant ☒ denial

8. Does this appeal raise issues concerning any of the following:

- ☐ death sentence
☒ life sentence

- ☐ juvenile offender
☐ pretrial proceedings

9. 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 ☐

10. 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):

Luis Hidalgo III and Anabel Espindola v. the Eighth Judicial District Court of the State of Nevada in and for the County of Clark, et al., Case No. 48233
Luis A. Hidalgo III v. The State of Nevada, Case No. 54272
Kenneth Counts v. the State of Nevada, Case No. unknown

11. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts that are related to this appeal (e.g., habeas corpus proceedings in state or federal court, bifurcated proceedings against co-defendants):

State of Nevada v. Luis Hidalgo, Jr. Eight Judicial District Court Case No. C241394;
State of Nevada v. Kenneth Counts, Eighth Judicial District Court Case No. C212667;
State of Nevada v. Anabel Espindola, Eighth Judicial District Court Case No. C212667;
State of Nevada v. Deangelo R. Carroll, Eighth Judicial District Court Case No. C212667;
State of Nevada v. Jayson Taoipu, Eighth Judicial District Court Case No. C212667

12. Nature of action. Briefly describe the nature of the action and the result below:
This was a criminal matter based on the allegation that Luis A. Hidalgo III and others hired someone to murder Timothy Hadland. Luis III was charged with conspiracy to commit murder, murder with a deadly weapon; and two counts of solicitation to commit murder. Originally the case was a death penalty case. At the time of trial, the case proceeded forward without the death penalty.

After three days of deliberations, a jury returned a verdict of guilty of conspiracy to commit a battery with a deadly weapon or battery resulting in substantial bodily harm; second degree murder with use of a deadly weapon; and two counts of solicitation to commit murder.

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 jury instructions and evidentiary instructions to the jury to insure due process and a fair trial.
3. Admission of surreptitious tapes against Luis A. Hidalgo III in violation of both the rules of evidence -hearsay- and the confrontation clause of the state and federal constitutions.
4. Improper evidentiary rulings in violation of both the rules of evidence and the confrontation clause of the state and federal constitutions effecting Luis Hidalgo III's rights to due process and a fair trial

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 June 23, 2009

19. Date of entry of written judgment or order appeal from July 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 _____

(other grounds)

Judgment of acquittal

Date filed: 03/10/09

(b) Date of entry of written order resolving motion August 4, 2009

22. Date notice of appeal filed July 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, III

John L. Arrascada

Name of appellant

Name of counsel of record

8/29/09
Date

[Signature]
Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 29 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):

Steven S. Owens, Chief Deputy District Attorney

200 Lewis Ave. Las Vegas NV 89155
Dated this 29 day of August, 2009.

[Signature]
Signature