



In the Supreme Court of the State of Nevada

INDICATE FULL CAPTION:

No. 54873

WILLIAM JOSEPH MCCAFFREY,

Appellant(s),

vs.

THE STATE OF NEVADA,

Respondent (s).

DOCKETING STATEMENT CRIMINAL APPEALS

Electronically Filed

Nov 05 2009 10:31 a.m.
(Including pretrial and post-trial motions, habeas corpus, and petitions for post-conviction relief)

Trace K. Lindeman

GENERAL INFORMATION

- Judicial District **Second** County **Washoe**
Judge: Hon. Steven R. Kosach District Ct. Docket No. CR09-1325
- If the defendant was given a sentence,
 - what is the sentence? Two concurrent terms of life in the Nevada Department of Corrections with the possibility of parole.
 - has the sentence been stayed pending appeal? No.
 - was defendant admitted to bail pending appeal? No.
- Was trial or post-conviction counsel appointed ☒ or retained ?
- Attorney filing this docketing statement:**

Attorney JOHN REESE PETTY Telephone (775) 337-4827
Firm Washoe County Public Defenders Office
Address One California Ave., Reno, Nevada 89509
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.

- Attorney(s) represent respondent(s):**

Attorney GARY H. HATLESTAD Telephone (775) 337-5750
Firm Washoe County District Attorneys Office
Address P.O. Box 30083, Reno, NV 89520
Client(s) Respondent

Attorney Telephone
Firm
Address
Client(s)

(List additional counsel on separate sheet if necessary)

6. **Nature of disposition below:**

Judgment after bench trial
Judgment after Jury verdict
Judgment upon guilty plea ☒ X
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
life sentence ☒ X 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 ☒ X 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):

N/A

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 was convicted, after his guilty plea, of one count of promotion of sexual performance of a minor. The court sentenced him to a term of 5 years to life in prison.

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 relied upon impalpable or highly suspect evidence or otherwise abused its sentencing discretion at sentencing.

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 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

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 | No | X |
|-----|----|----------|

TIMELINESS OF NOTICE OF APPEAL

18. Date district court announced decision, sentence or order appealed from. **October 7, 2009.**

19. Date of entry of written judgment or order appeal from. **October 9, 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

- (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 **November 2, 2009.**

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: WILLIAM JOSEPH MCCAFFREY.

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



Signature of counsel of record

Date: November 5, 2009

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 5th day of November, 2009. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Gary H. Hatlestad, Chief Appellate Deputy,
Washoe County District Attorney

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

WILLIAM JOSEPH MCCAFFREY (#1042292)
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, Nevada 89702

John Reese Petty
Washoe County Public Defender's Office