

# In the Supreme Court of the State of Nevada

William P. Castillo

Petitioner,

vs.

E.K. McDaniel, Warden, Ely State Prison,  
Catherine Cortez Masto, Attorney General for  
Nevada,

Respondents.

No. 56176

Electronically Filed  
**DOCKETING STATEMENT**  
**CRIMINAL APPEALS** 11/28/2010 09:52 a.m.  
Tracie K. Lindeman

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

## GENERAL INFORMATION

1. Judicial District Eighth County Clark  
Judge William Maupin - trial judge District Ct. Docket No. C 133336  
David Barker - post-conviction judge, this appeal

2. If the defendant was given a sentence,  
(a) what is the sentence? Death  
(b) has the sentence been stayed pending appeal? Yes  
(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 Gary Taylor/Nisha Brooks-Whittington Telephone (702) 388-6577  
Firm Law Offices of the Federal Public Defender  
Address 411 East Bonneville Avenue, Suite 250  
Las Vegas, Nevada 89101  
Client(s) William P. Castillo

5. Is appellate counsel appointed X or retained \_\_\_\_\_?

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 David J.J. Roger, Steven S. Owens Telephone (702) 671-2750  
Firm Clark County District Attorney's Office  
Address 200 Lewis Avenue  
Las Vegas, Nevada 89155  
Client(s) State of Nevada

Attorney Catherine Cortez Masto Telephone (775) 684-1100  
Firm Attorney General's Office  
Address 100 N. Carson Street  
Carson City, Nevada 89701-4717  
Client(s) State of Nevada; E.K. McDaniel, Warden, Ely State Prison

(List additional counsel on separate sheet if necessary)

1 7. **Nature of disposition below:**

- |  |   |
|--|---|
| <input type="checkbox"/> Judgment after bench trial            | <input type="checkbox"/> Grant of pretrial habeas                         |
| <input 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   | grant <input type="checkbox"/> denial                                     |
| <input type="checkbox"/> Parole/Probation revocation           | <input checked="" type="checkbox"/> Post-conviction habeas (NRS ch. 34)   |
| <input type="checkbox"/> Motion for new trial                  | <input type="checkbox"/> grant <input checked="" type="checkbox"/> denial |
| <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"/> grant <input type="checkbox"/> denial |   |

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

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> death sentence | <input type="checkbox"/> juvenile offender    |
| <input type="checkbox"/> life sentence             | <input type="checkbox"/> pretrial proceedings |

9 9. Expedited appeals: The court may decide to expedite the appellate process in this matter. Are you in favor of proceeding in such a manner?

11 Yes \_\_\_\_\_ No  X

12 10. **Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously before this court which are related to this appeal (*e.g.*, separate appeals by co-defendants, appeal after post-conviction proceedings):

14 Castillo v. State, No. 29512, 114 Nev. 271, 956 P.2d 163 opinion affirming judgment of conviction, April 2, 1998  
15 Castillo v. State, No. 40982, 120 Nev. 1226, 131 P.3d 589, unpublished order of affirmance denying appeal of post-conviction writ of habeas corpus, February 5, 2004

16 11. **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):

18 Castillo v. State, No. C133336, Eighth Judicial District Court, proper person petition for writ of habeas corpus filed April 2, 1999 (relates to NSC 40982)  
19 Castillo v. McDaniel, Case No. 2:04-cv-00868-RCJ-GWF (January 21, 2010 order to stay and hold case in abeyance in order for petitioner to file habeas petition in state court)  
20 Castillo v. State, No. C133336, Eighth Judicial District Court, petition for writ of habeas corpus filed September 18, 2009.

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

23 Petitioner/Appellant's appeal from order granting the state's motion to dismiss petition for writ of habeas corpus, Eighth Judicial District, Clark County, State of Nevada

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

- 25 1. The district court erred in dismissing the petition on procedural grounds without  
26 addressing the constitutional issues arising from inconsistent application of the  
27 procedural rules to bar consideration of petitioner's claims.
- 28 2. The substantive constitutional claims in the petition are meritorious and justify granting relief from the conviction and death sentence.

1  
2 14. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, have you  
3 notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS  
4 30.130?

5 N/A X Yes \_\_\_\_\_ No \_\_\_\_\_

6 If not, explain \_\_\_\_\_  
7

8 15. **Issues of first-impression or of public interest.** Does this appeal present a substantial legal  
9 issue of first-impression in this jurisdiction or one affecting an important public interest?

10 First-impression: Yes \_\_\_\_\_ No X

11 Public interest: Yes X No \_\_\_\_\_

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

14 N/A days

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

17 Yes X No \_\_\_\_\_

#### 18 TIMELINESS OF NOTICE OF APPEAL

19 18. Date district court announced decision, sentence or order appealed from April 9, 2010

20 19. Date of entry of written judgment or order appeal from May 12, 2010

21 (a) If no written judgment or order was filed in the district court, explain the basis for  
22 seeking appellate review:

23 20. If this appeal is from an order granting or denying a petition for a writ of habeas corpus, indicate  
24 the date written notice of entry of judgment or order was served May 21, 2010

25 (a) Was service by delivery or by mail Mail (specify).

26 21. If the time for filing the notice of appeal was tolled by a post-judgment motion,

27 (a) Specify the type of motion, and the date of filing of the motion: N/A

28 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 June 8, 2010

23. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(b),

1 NRS 34.710, NRS 34.815, NRS 177.015(2), or other NRAP 4 (a) (1), 4 (b) (1); NRS  
2 §34.575(1) appeal from order of district court granting or denying writ

3 **SUBSTANTIVE APPEALABILITY**

4 24. Specify statute, rule or other authority which grants this court jurisdiction to review the judgment  
or order appealed from:

5 NRS 177.015(1)(b) \_\_\_\_\_  
6 NRS 177.015(2) \_\_\_\_\_  
7 NRS 177.055 \_\_\_\_\_  
8 NRS 177.385 \_\_\_\_\_

5 NRS 34.710(3) \_\_\_\_\_  
6 NRS 34.710(4) \_\_\_\_\_  
7 NRS 34.815 \_\_\_\_\_  
8 Other (specify) NRS §34.575(1) appeal from  
9 order of district court granting or denying writ

10 **VERIFICATION**

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

13 William P. Castillo

13 Gary Taylor and Nisha Brooks-Whittington

14 Name of Appellant

14 Name of counsel of record

15 June 28, 2010  
16 Date

15 /s/ Gary A. Taylor  
16 Signature of counsel of record

17 /s/ Nisha Brooks-Whittington  
18 Signature of counsel of record

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**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 28th day of June, 2010. Electronic Service of the foregoing DOCKETING STATEMENT CRIMINAL APPEALS shall be made in accordance with the Master Service List as follows:

Steven S. Owens  
Chief Deputy District Attorney

Catherine Cortez Masto  
Attorney General

Katrina Manzi  
An employee of the Federal Public Defender's Office