

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRENDAN DUNCKLEY,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Case No. Jan 03 2012 04:26 p.m.

Tracie K. Lindeman
Docketing Statement
Clerk of Supreme Court
CRIMINAL APPEAL

GENERAL INFORMATION

1. **Judicial District:** Second Judicial District; County: Washoe County, Nevada.

Judge: District Judge Connie J. Steinheimer.

2. **If the defendant was given a sentence,**

(a) **What is the sentence?** The District Court sentenced Mr. Dunckley to serve life in prison with the minimum parole eligibility of ten years for Count I and a concurrent term of 120 months with the minimum parole eligibility of 24 months for Count II.

(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:** Robert W. Story, Story Law Group, 2450 Vassar Street, Suite 3B, Reno, Nevada, 89502, 775-284-5510.

Client(s): Brendan Dunckley.

5. **Is appellate counsel appointed** ☒ **or retained** ☐?

6. **Attorney representing respondent(s):** Gary Hatelstad, Washoe County District Attorney's Office, One South Sierra Street, Post Office Box 30083, Reno, Nevada 89520, 775-337-5720.

Client(s): State of Nevada.

7. **Nature of disposition below:**

☐ Motion to withdraw guilty plea

☐ grant ☐ denial

☒ Post-conviction habeas (NRS Chapter 34).

☐ grant ☒ denial

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

☐ death sentence ☐ juvenile offender

☒ life sentence ☐ 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:** *Brendan Dunckley, Appellant, v. The State of Nevada, Respondent*; Nevada Supreme Court Case Number 52383; Order of Affirmance entered on May 8, 2009.

11. **Pending and prior proceedings in other courts:** The original criminal matter in the Second Judicial District Court, case number CR07-1728; and the petition for writ of habeas corpus from the original criminal matter in the Second Judicial District Court, case number CR07P1728.

12. **Nature of action.** Mr. Dunckely filed a Petition for Writ of Habeas Corpus and Supplemental Petition for Habeas Corpus in the Second Judicial District Court. The district court conducted an evidentiary hearing on his Petition and Supplemental Petition. The district court dismissed his Petition and Supplemental Petition. This appeal followed, challenging the dismissal.

13. **Issues on appeal.** Whether the District Court erred dismissing Mr. Dunckely's Petition and Supplemental Petition.

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 ☐

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

1 interest?

2 First Impression: Yes ☐ No ☒

3 Public interest: Yes ☐ No ☒

4 16. **Length of trial:** If this action proceeded to trial or evidentiary in the district court,
5 how many days did the trial or evidentiary hearing last?

6 1/2 day evidentiary hearing.

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

9 Yes ☐ No ☒

10 18. **Date district court announced decision, sentence, or order appealed from** June 3,
11 2011.

12 19. **Date of entry of written judgment or order appeal from** December 29, 2011.

13 20. **If this appeal is from an order granting or denying a petition for writ of habeas**
14 **corpus, indicate the date written notice of entry of judgment or order was served by the**
15 **district court** December 29, 2011.

16 (a) **Was the service by delivery** ☐, **by mail** ☐, **or by efilng** ☒.

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

18 (a) **Specify the type of motion, and the date of filing the motion:**

19 N/A.

20 (b) **Date of entry of written order resolving motion**

21 N/A.

22 22. **Date notice of appeal filed** December 30, 2011.

23 23. **Specify statute or rule governing the time limit for filing the notice of appeal,**
24 **NRS 34.575(2).**

25 **VERIFICATION**

26 I certify that the information provided in this docketing statement is true and complete to the

27 ///

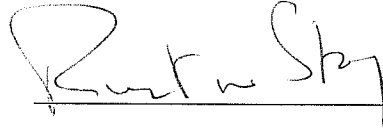
28 ///

1 best of my knowledge, information, and belief.

2 Brendan Dunkley, Appellant

Robert W. Story, Attorney of Record

3
4
5 January 3, 2012

6 
Robert W. Story

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8 **CERTIFICATE OF SERVICE**

9 I certify that on January 3, 2012, I served a copy of this completed docketing statement upon
10 all counsel of record:

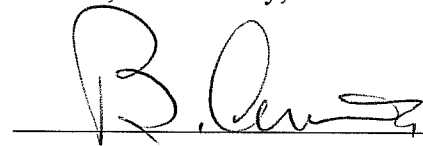
11 ☒ by electronic service.

12 ☐ by personal delivery.

13 ☒ by mailing it by first class mail with sufficient postage prepaid to the following address: .

14 Attorney General Cathrine Cortez Masto, 100 N. Carson Street, Carson City, Nevada 89701-4717.

15
16 January 3, 2012

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Barbara A. Ancina