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Attorneys for Defendant

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 *****

9)
10 THE STATE OF NEVADA)

11 Plaintiff,)

12 vs.)

13 RICKIE SLAUGHTER JR.)

14 Defendant.)
15)

CASE NO. : 04C204957

DEPT. NO.: III

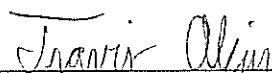
16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on the 5th day of November, 2012, I served a true and correct copy
18 of the above and foregoing **CASE APPEAL STATEMENT** via first-class mail, postage prepaid,
19 addressed to the following:

20 STEVEN B. WOLFSON
21 District Attorney's Office
22 200 E. Lewis Ave.
Las Vegas, NV 89011

CATHERINE CORTEZ MASTRO
State Attorney General's Office
100 North Carson Street
Carson City, Nevada 89701-4717

23 RICKIE SLAUGHTER JR.
24 #85902
25 22010 Cold Creek Road
Indian Springs, Nevada 89070

26 
27 _____
Employee of GAMAGE & GAMAGE
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Rickie Slaughter Jr.,

Appellant,

vs.

The State of Nevada,

Respondent

No. 61991

Electronically Filed
Nov 08 2012 02:14 p.m.

DOCKETING STACIE K. MINDEN
CRIMINAL APPEALS Clerk of Supreme Court

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

GENERAL INFORMATION

1. Judicial District Eighth County Clark
Judge Douglas W. Herndon District Ct Case No. 04C204957

2. If the defendant was given a sentence,

(a) what is the sentence?

See attached, Exhibit 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 William H. Gamage Telephone (702) 386-9529

Firm: Gamage & Gamage

Address: 5580 South Fort Apache Rd., Suite 110
Las Vegas, NV 89148

Client(s) Rickie Slaughter, Jr.

5. Is appellate counsel appointed ☒ 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 Mark DiGiacomo Telephone (702) 671-2833

Firm: Clark County District Attorney's Office

Address: 200 E. Lewis Ave.
Las Vegas, NV 89101

Client(s) The State of Nevada

Attorney Michelle Fleck Telephone (702) 671-2702

Firm: Clark County District Attorney's Office

Address: 200 E. Lewis Ave.
Las Vegas, NV 89101

Client(s) The State of Nevada

(List additional counsel on separate sheet if necessary)

7. Nature of disposition below:

- | | |
|---|--|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Grant of pretrial habeas |
| <input checked="" 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 habeas (NRS ch. 34) |
| <input type="checkbox"/> Grant of pretrial motion to dismiss | <input type="checkbox"/> grant <input type="checkbox"/> denial |
| <input type="checkbox"/> Parole/Probation revocation | <input type="checkbox"/> Other disposition (specify) |
| <input checked="" type="checkbox"/> Motion for new trial | |
| <input type="checkbox"/> grant <input checked="" type="checkbox"/> denial | |
| <input type="checkbox"/> Motion to withdraw guilty plea | |
| <input type="checkbox"/> grant <input type="checkbox"/> 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):

SLAUGHTER, JR. (RICKIE) VS. STATE, 48742; SLAUGHTER, JR. (RICKIE) VS. STATE, 52385; SLAUGHTER, JR. (RICKIE) VS. STATE, 54296; SLAUGHTER (RICKIE) VS. DIST. CT. (STATE), 58220.

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):

The State of Nevada vs. Rickie Slaughter Jr., 04C204957 Eighth Judicial District Court, Department III.

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

This criminal action was originally resolved subject to a plea agreement. After Appellant's Writ of Habeas Corpus was denied by the district court, he appealed the denial to the Nevada Supreme Court. On January 24, 2007 the Nevada Supreme Court affirmed in part, reversed in part, and remanded the matter to the district court for an evidentiary hearing on whether Appellant's plea was voluntary and informed. On remand, the district court denied Appellant's claim that his guilty plea was involuntarily entered, but ordered modification to his sentence. On appeal in a decision dated March 27, 2009, the Nevada Supreme Court ruled that Appellant did enter into his plea involuntarily, and found the modifications to his sentence as inappropriate. The Court granted Appellant an opportunity to withdraw his guilty plea. Appellant's jury trial was held from May 11, 2011 through May 20, 2011. Appellant was convicted on all counts on May 20, 2011 and subsequently filed a number of motions in the hope of obtaining a new trial. All of Appellant's motions were denied, and sentencing occurred on October 16, 2012. The Judgment of Conviction was filed on October 22, 2012.

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

1. Denial of Motion to Preclude Suggestive Identification;
2. Denial of Motion to Dismiss or Suppress identification because of the State's failure to produce or preserve exculpatory identification information;
3. Denial of Motion to preclude the statement of Tiffany Johns (Holly);
4. Denial of Motion to Exclude 7-11 Surveillance Video;
5. Prosecutorial Misconduct in failing to produce or preserve exculpatory evidence relating to identification by a number of the witnesses;
6. Prosecutorial Misconduct in making improper statements during closing arguments;
7. Brady challenge to the prosecution's failing to produce or preserve exculpatory evidence relating to identification by a number of the witnesses;
8. Denial of Motion to Disqualify Judge Herndon;
9. Batson challenge that peremptory challenges during jury selection resulted in the exclusion of a cognizable group.;
10. Cumulative Error of aggregated preserved and non-preserved errors that may be, individually, harmless is sufficient to establish plain error;
11. The Mansford Standard for regulating suggestive identification should be modified;
12. Actual Innocence- No reasonable juror could have convicted Appellant with the evidence in this case;
13. As Appellant's Counsel has yet to receive all of the materials from this case at this time, Appellant reserves the right to supplement these issues prior to his opening brief.

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?

8 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 October 16, 2012

19. Date of entry of written judgment or order appeal from October 22, 2012

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

N/A.

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 N/A

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 October 24, 2012

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>DC denied new trial.</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>JOC entered 10/22/2012</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.

Rickie Slaughter Jr.

Name of appellant

William H. Gamage

Name of counsel of record

November , 2012

Date

Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the ____ day of Nov, 2012, 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 _____ day of November, 2012.

Signature