



IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

JEMAR MATTHEWS,

Appellant

v.

STATE OF NEVADA,

Respondent.

No. 62241

Electronically Filed
Mar 27 2013 03:15 p.m.

DOCKETING STATEMENT
CRIMINAL APPEALS

Tracie K. Lindeman
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 DAVID BARKER District Ct Case No. 06-C-228460-2

2. If the defendant was given a sentence,
(a) what is the sentence?

See Exhibit No. 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, ESQ. Telephone 702-386-9529

Firm: GAMAGE & GAMAGE

Address: 5580 South Ft. Apache, Suite 110, Las Vegas, Nevada 89148

Client(s) JEMAR MATTHEWS

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.

N/A

6. Attorney(s) representing respondent(s):

Attorney STEVEN B. WOLFSON Telephone 702-671-2500
Firm: Clark County District Attorney
Address: 200 Lewis Avenue, Las Vegas, Nevada 89101

Client(s) The State of Nevada

Attorney Cynthia Cortez Mastro Telephone 702-684-1100
Firm: Nevada Attorney General
Address: 100 N. Carson Street, Carson City, Nevada 89701-4717

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

MATTHEWS v. State of Nevada - Docket Number: 50052

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):

N/A

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

DEFT. MATTHEWS was found guilty at trial of Conspiracy to Commit Murder; 1st Degree Murder W/use of a deadly weapon; Attempt Murder W/use of a deadly weapon (3 counts); Poss. of a Short Barrelled Rifle; Conspiracy to Commit Robbery; Robbery W/use of a deadly weapon (2 counts); and, Assault W/use of a deadly weapon (2 counts).

See Exhibit No. 1 for sentencing information

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

The issues on Appeal include:

- Trial court's denial of a Deft's Writ of Habeas Corpus;
 - Trial court's denial of Evidentiary Hearing for Writ;
 - Trial court's failure to recognize Deft's claims of ineffective assist. of counsel;
- and,
- Defendant reserves the right to amend these principle issues on appeal based upon investigation and legal research along with review of the record on appeal.

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?

5 _____ 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 11/13/2012

19. Date of entry of written judgment or order appeal from 11/20/2012

(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 _____	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 12/04/12

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) & NRS 34.575(1)
SUBSTANTIVE APPEALABILITY

24. Specify statute, rule or other authority that grants this court jurisdiction to review from:

NRS 177.015(1)(b)	<input type="checkbox"/>	NRS 34.560	<input type="checkbox"/>
NRS 177.015(1)(c)	<input type="checkbox"/>	NRS 34.575(1)	<input checked="" type="checkbox"/>
NRS 177.015(2)	<input type="checkbox"/>	NRS 34.575(2)	<input type="checkbox"/>
NRS 177.015(3)	<input type="checkbox"/>	Other (specify)	
NRS 177.055	<input type="checkbox"/>		

VERIFICATION

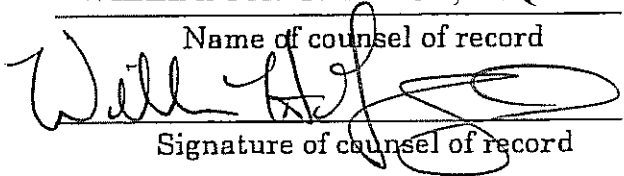
I certify that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief.

JEMAR MATTHEWS

Name of appellant
3/26/13

Date

WILLIAM H. GAMAGE, ESQ.

Name of counsel of record


Signature of counsel of record

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of March, 2013, I served a true and correct copy of the above and foregoing **DOCKETING STATEMENT** via first-class mail, postage prepaid, addressed to the following:

STEVEN B. WOLFSON
District Attorney's Office
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

JEMAR MATTHEWS.
#1014654
Ely State Prison
P.O. Box 1989
4569 North State Rt.
Ely, Nevada 89301

/S/ William H. Gamage, Esq.

Employee of GAMAGE & GAMAGE

EXHIBIT ONE

JEMAR D. MATTHEWS: Pursuant to the Jury's verdict, DEFT. MATTHEWS ADJUDGED GUILTY of COUNT 1 - CONSPIRACY TO COMMIT MURDER (F), COUNT 2 - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F), COUNTS 3, 4, 5 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F), COUNT 6 - POSSESSION OF SHORT BARRELED RIFLE (F), COUNT 7 - CONSPIRACY TO COMMIT ROBBERY (F), COUNTS 8, 9 - ROBBERY WITH USE OF A DEADLY WEAPON (F), COUNTS 10, 11 - ASSAULT WITH USE OF A DEADLY WEAPON (F).

COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and the \$150.00 DNA Analysis fee including testing to determine genetic markers, as to:

COUNT 1, Deft. SENTENCED to a MINIMUM of TWENTY-SIX (26) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections (NDC); as to,

COUNT 2, Deft. SENTENCED to LIFE WITH the possibility of parole after TWENTY (20) YEARS, plus an equal and CONSECUTIVE term for use of a deadly weapon; as to,

COUNT 3, Deft. SENTENCED to a MINIMUM of FORTY-EIGHT (48) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS in the Nevada Department of Corrections (NDC), plus an equal and CONSECUTIVE MINIMUM OF FORTY-EIGHT (48) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS for use of a deadly weapon; as to,

COUNT 4, Deft. SENTENCED to a MINIMUM of FORTY-EIGHT (48) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS in the Nevada Department of Corrections (NDC), plus an equal and CONSECUTIVE MINIMUM OF FORTY-EIGHT (48) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS for use of a deadly weapon; as to,

COUNT 5, Deft. SENTENCED to a MINIMUM of FORTY-EIGHT (48) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS in the Nevada Department of Corrections (NDC), plus an equal and CONSECUTIVE MINIMUM OF FORTY-EIGHT (48) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS for use of a deadly weapon; as to,

COUNT 6, Deft. SENTENCED to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC); as to,

COUNT 7, Deft. SENTENCED to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC); as to,

COUNT 8, Deft. SENTENCED to a MINIMUM of FORTY (40) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Corrections (NDC), plus an equal and CONSECUTIVE MINIMUM of FORTY (40) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS for use of a deadly weapon; as to,

COUNT 9, Deft. SENTENCED to a MINIMUM of FORTY (40) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Corrections (NDC), plus an equal and CONSECUTIVE MINIMUM of FORTY (40) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS for use of a deadly weapon; as to,

COUNT 10, Deft. SENTENCED to a MINIMUM of SIXTEEN (16) MONTHS and a MAXIMUM of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC); as to,

COUNT 11, Deft. SENTENCED to a MINIMUM of SIXTEEN (16) MONTHS and a MAXIMUM of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC); and,

All COUNTS to run CONCURRENT with each other, with THREE HUNDRED (300) DAYS credit for time served; BOND, if any, EXONERATED.