

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

JOSEPH ALEXANDER HENDERSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 62629

Electronically Filed  
Apr 09 2013 03:15 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

DOCKETING STATEMENT  
CRIMINAL APPEALS

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

GENERAL INFORMATION

1. Judicial District Eighth County Clark  
Judge Abbi Silver District Ct Case No. C-05-212968

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

(1) 12 months; (2) 62-156 concurrent; (3) 24-60 consecutive; (4) 60-life with consecutive 60-life, consecutive; (5) 60-life with consecutive 60-life, consecutive; (6) 24-60 consecutive; (7) 120-life with consecutive 120-life, concurrent; (8) 120-life with consecutive 120-life, consecutive; (9) 120-life plus consecutive 120-life, consecutive; (10) 24-60 consecutive; (11) 72-180 plus consecutive 72-180, concurrent; (12) 72-180 plus consecutive 72-180, consecutive; (13) 12 concurrent; (14) 62-156 consecutive.

(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 Julian Gregory, Esq. Telephone 702-868-8866

Firm: Law Office of Gabriel L. Grasso, P.C.

Address: 231 S. 3rd St. #100  
Las Vegas, NV 89101

Client(s) Joseph Alexander Henderson

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 Steven B. Wolfson, Esq. Telephone (702) 455-4741

Firm: Clark County District Attorney

Address: 200 Lewis Ave.  
Las Vegas, NV 89155

Client(s) The State of Nevada

Attorney Catherine Cortez Masto Telephone (775) 684-1265

Firm: Nevada State Attorney General

Address: 100 N. Carson St.  
Carson City, NV 89701

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 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):

Direct appeal, NVSC Docket No. 52573

**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:

On June 27, 2008, Appellant was convicted of conspiracy to commit burglary, burglary while in possession of a firearm, conspiracy to commit first degree kidnapping, first degree kidnapping with use of a deadly weapon, conspiracy to commit sexual assault, three counts of sexual assault with use of a deadly weapon, conspiracy to commit robbery, two counts of robbery with use of a deadly weapon, open or gross lewdness, and battery with use of a deadly weapon resulting in substantial bodily harm. On August 5, 2008, Appellant was sentenced as above. Appellant filed his direct appeal, and remittitur issued March 11, 2010.

On January 11, 2011, Appellant filed his Pro Per Petition for Writ of Habeas Corpus (Post Conviction). Counsel was appointed, and an evidentiary hearing was held on Appellant's claims on October 22, 2012. On December 3, 2012, the District Court filed its Notice of Entry of Findings of Fact, Conclusions of Law and Order. Appellant filed his notice of appeal, and this Court remanded to the District Court for the appointment of appellate counsel. The undersigned counsel was appointed on March 27, 2013.

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

(1) The District Court erred in denying Appellant's claims of ineffective assistance of counsel based on (A) failure to hire a forensic DNA expert; (B) failure to challenge the validity of the search warrant; (C) failure to allow Appellant to review and seek to correct errors in his Pre-Sentence Investigation Report; (D) failure to seek to record bench conferences; and (E) failure to keep necessary notes, conduct research, or document the file.

(2) The District Court erred in denying Appellant's claim under Brady v. Maryland, 373 U.S. 83 (1963).

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?

1 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 10/22/2012

19. Date of entry of written judgment or order appeal from 11/21/2012

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

Notice of entry under p.20, below, filed 12/03/2012

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 2/12/2013

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  
NRS 34.575

### SUBSTANTIVE APPEALABILITY

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

NRS 177.015(1)(b) _____	NRS 34.560 _____
NRS 177.015(1)(c) _____	NRS 34.575(1) <u>x</u>
NRS 177.015(2) _____	NRS 34.575(2) _____
NRS 177.015(3) _____	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.

Joseph Alexander Henderson

Name of appellant

4/9/2013

Date

Julian Gregory

Name of counsel of record



Signature of counsel of record

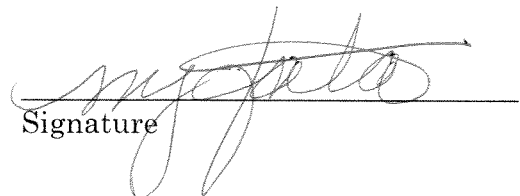
### CERTIFICATE OF SERVICE

I certify that on the 9th day of April, 2013, 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 9th day of April, 2013.

  
Signature