

1                                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

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3       RONALD ROSS,  
4                       Appellant,  
5       vs.  
6       THE STATE OF NEVADA  
7                       Respondent.

**Supreme Court No.: 63624**

District Court Case No.: C236169

Electronically Filed  
Aug 05 2013 04:28 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

8                                   **DOCKETING STATEMENT**  
9                                   **CRIMINAL APPEALS**

10       1.       Eighth Judicial District Court, Clark County.  
11                       Judge Michael Villani, District Court Case No. C236169

12       2.       If the Defendant was given a sentence,

13               (a) What is the sentence? On April 7, 2009, the Court sentenced the Appellant as  
14               follows:

15                       Count 1—Burglary (Felony) (10 to Life pursuant to NRS 205.060);  
16                       Count 2—Larceny from the Person (Felony) (10 to Life pursuant to NRS  
17                       205.067 to run concurrent with Count 1);  
18                       Count 3— Burglary (Felony) (10 to Life pursuant to NRS 205.060 to run  
19                       consecutive to Counts 1 & 2);  
20                       Count 4—Possession of Credit or Debit Card without Cardholder's  
21                       Consent (Felony) (10 to Life pursuant to NRS 205.690 to run  
22                       consecutive to Counts 1 & 2 and concurrent with Count 3);  
23                       Count 5—Fraudulent Use of Credit or Debit Card (Felony) (10 to Life  
24                       pursuant to NRS 205.760 to run consecutive to Counts 1 & 2 and  
25                       concurrent with Count 4);  
26                       Count 6—Theft (Felony) (10 to Life pursuant to NRS 205.0835,  
27                       205.0832 to run consecutive to Counts 1 & 2 and concurrent with Count  
28                       5);  
                      Count 7— Conspiracy to Commit Larceny (Gross Misdemeanor) (One  
                      (1) year in the Clark County Detention Center pursuant to NRS 205.220,  
                      205.222, 199.480. Petitioner received two hundred (200) days credit for  
                      time served);

26               (b) Has the sentenced been stayed pending appeal? No.

27               (c) Was the defendant admitted to bail pending appeal? No.

1           3.       Was counsel in the district court appointed [X] or retained [ ]?

2           4.       Attorney filing this docketing statement:

3                   MATTHEW D. CARLING, ESQ.  
4                   51 East 400 North, Bldg. #1  
5                   Cedar City, Utah 84720  
6                   (702) 419-7330 (Office)  
7                   (702) 446-8065 (Fax)  
8                   CedarLegal@gmail.com

9                   Client: RONALD ROSS

10          5.       Is appellate counsel appointed [X] or retained [ ]?

11                   **If this is a joint statement by multiple appellants, add the names and**  
12                   **addresses of other counsel on an additional sheet of accompanied by a**  
13                   **certificate that they concur in the filing of this statement. N/A**

14          6.       Attorney(s) representing respondents:

15                   CLARK COUNTY DISTRICT ATTORNEY  
16                   200 Lewis Avenue  
17                   Las Vegas, Nevada 89155-2212

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

19                   [ ] Judgment after bench trial                   [ ] Grant of pretrial habeas  
20                   [ ] Judgment after jury verdict                   [ ] Grant of motion to suppress evidence  
21                   [ ] Judgment upon guilty plea                   [X] Post-conviction habeas (NRS ch. 34)  
22                   [ ] Grant of pretrial motion to dismiss                   [ ] grant       [X] denial  
23                   [ ] Parole/Probation revocation                   [ ] Other disposition  
24                   [ ] Motion for new trial  
25                   [ ] grant       [ ] denial  
26                   [ ] Motion to withdraw guilty plea  
27                   [ ] grant       [ ] denial

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

                  [ ] death sentence                   [ ] juvenile offender  
                  [X] life sentence                   [ ] pretrial proceedings

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

                  [X] Yes                   [ ] No

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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 proceeding):

5 Ross v. State, No. 49091

6 Ross v. State, No. 50153

7 Ross v. State, No. 52921

8 Ross v. State, No. 53882

9 Ross v. State, No. 58563

10 Ross v. State, No. 60171

11 Ross v. State, No. 63624

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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):

17 State v. Ross, 06C219404, 8<sup>th</sup> Judicial District Court

18 State v. Ross, 06C219549, 8<sup>th</sup> Judicial District Court

19 State v. Ross, 06C220385, 8<sup>th</sup> Judicial District Court

20 State v. Ross, 06C220915, 8<sup>th</sup> Judicial District Court

21 State v. Ross, 06C220916-1, 8<sup>th</sup> Judicial District Court

22 State v. Ross, 07C236169, 8<sup>th</sup> Judicial District Court

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12. **Nature of action.** Briefly describe the nature of the action and result below:  
On November 13, 2008, at trial Petitioner was convicted of Count 1—Burglary (sentenced to 10 to life), Count 2—Larceny from the Person (sentenced 10 to life, concurrent to Count 1), Count 3— Burglary (sentenced 10 to life, concurrent to Counts 1 & 2), Count 4—Possession of Credit or Debit Card without Cardholder’s Consent (sentenced 10 to life, consecutive to counts 1 & 2 and concurrent with count 3), Count 5—Fraudulent Use of Credit or Debit Card (sentenced to 10 to life, consecutive to counts 1 & 2 and concurrent with count 4), Count 6—Theft (sentenced to 10 to life, consecutive to counts 1 & 2 and concurrent with count 5), Count 7—Conspiracy to Commit Larceny (sentenced to 1 year in the CCDC). The Court sentenced Petitioner on April 7, 2009. The Judgment of Conviction was filed on April 16, 2009. Petitioner filed a Notice of Appeal on December 5, 2008 (No. 52921). This Court affirmed the conviction on November 8, 2010. On December 3, 2010 Remittitur was issued. Petitioner filed a Pro per Petition for Writ of Habeas Corpus (post-conviction) on November 30, 2011. Petitioner’s First Supplemental Petition for Writ of Habeas Corpus was filed on July 18, 2012. The State’s filed a Response on December 28, 2012. Petitioner filed a Reply on January 22, 2013. The State filed a Response on February 5, 2013. The Court denied the Petition on May 7, 2013.

Petitioner appealed the District Court decision to deny his Petition for Writ of Habeas Corpus on July 16, 2013. This appeal follows.

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

**THE COURT ABUSED ITS DISCRETION IN PREMATURELY DENYING DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS.**

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?

[X] 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 interest?

First impression: [ ] Yes [X] No

Public Interest: [ ] Yes [X] 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?

2 days.

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

[ ] Yes [X] No

#### **TIMELINESS OF NOTICE OF APPEAL**

18. Date district court announced decision, sentence or order appealed from? June 11, 2013.

19. Date of entry of written judgment or order appealed from: June 11, 2013

(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. June 17, 2013.

(a) Was service by delivery ☐ (fax) 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 discovery evidence)

New trial \_\_\_\_\_ Date filed \_\_\_\_\_  
(other grounds)

(b) Date of entry of written order resolving motion \_\_\_\_\_

22. Date notice of appeal filed: July 16, 2013.

23. Specify statute or rule governing the time limit for filing the notice of appeal,  
e.g., NRAP 4(b), NRS 34.530, 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)

☐ NRS 177.015(2)

☐ NRS 34.575(2)

☐ NRS 177.015(3)

☐ Other (specify) \_\_\_\_\_

#### **VERIFICATION**

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

RONALD ROSS  
Applicant

MATTHEW D. CARLING, ESQ.  
Counsel of Record

August 5, 2013

/s/ Matthew D. Carling, Esq.  
MATTHEW D. CARLING, ESQ.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that this document was filed electronically with the Nevada Supreme  
3 Court on the 5<sup>th</sup> day of August, 2013. Electronic Service of the foregoing document shall be  
4 made in accordance with the Master Service List as follows:  
5

6 CATHERINE CORTEZ MASTO  
7 Nevada Attorney General

8 STEVEN S. OWENS  
9 Chief Deputy District Attorney

10 MATTHEW D. CARLING  
11 Counsel for Appellant

12 DATED this 5<sup>th</sup> day of August, 2013.

13 */s/ Matthew D. Carling, Esq.*

14 MATTHEW D. CARLING, ESQ.  
15 Nevada Bar No. 7302  
16 Attorney for Appellant,  
17 RONALD ROSS  
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