

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

DUSTIN JAMES BARRAL,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

No. 64135

Electronically Filed
Oct 22 2013 04:53 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 Judicial District Court County Clark
Judge Smith District Ct Case No. C269095

2. If the defendant was given a sentence,

(a) what is the sentence?

35 years to life, concurrent

(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 MICHAEL L. BECKER, ESQ. MICHAEL V. CASTILLO, ESQ. Telephone 702-331-2725

Firm: LAS VEGAS DEFENSE GROUP, LLC

Address: 2300 W. SAHARA AVE., SUITE 450
LAS VEGAS, NV 89102

Client(s) DUSTIN JAMES BARRAL

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 _____ Telephone _____

Firm: _____

Address: _____

Client(s) _____

Attorney _____ Telephone _____

Firm: _____

Address: _____

Client(s) _____

(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 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):

N/A

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:
Guilty verdict of two counts of Sexual Assault-Victim under 14 following Jury Trial

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

- 1) Whether the Court committed reversible error in failing to swear in the jury venire over defense objection prior to voir dire;
- 2) Whether the Court committed reversible error by inappropriately commenting on and offering an opinion from the bench on how the evidence should be interpreted by the jury;
- 3) Whether the Court committed judicial misconduct by castigating and upbraiding defense counsel in the presence of the jury;
- 4) Whether the evidence was sufficient to sustain the verdict;
- 5) Whether the Court erred in refusing to allow the defense to effectively cross examine named victim pursuant to Miller v. State;
- 6) Whether the Court erred in denying the defense motion for a new trial;
- 7) Whether cumulative error during the course of the trial warrants reversal;
- 8) Any additional issues that arise after thorough review of the trial transcript (which has not yet been made available).

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 09/18/13

19. Date of entry of written judgment or order appeal from 9/23/13

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

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 9/27/13

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) _____	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>xx</u> _____	Other (specify) _____
NRS 177.055 _____	

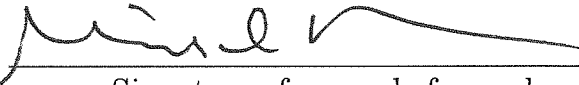
VERIFICATION

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

Dustin James Barral
Name of appellant

10/22/13
Date

Michael L. Becker & Michael V. Castillo
Name of counsel of record


Signature of counsel of record

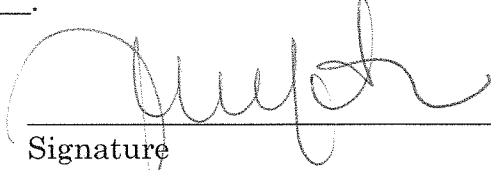
CERTIFICATE OF SERVICE

I certify that on the 22nd day of October, 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 22nd day of October, 2013.


Signature