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

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Electronically Filed
Jan 06 2014 02:38 p.m.

Tracie K. Lindeman
Clerk of Supreme Court

5
6 ERNESTO MANUEL GONZALEZ

Case No. 64249

7 Appellant,

8 vs.

9 THE STATE OF NEVADA,

10 Respondent.

11 **DOCKETING STATEMENT CRIMINAL APPEALS**

12 **GENERAL INFORMATION**

13 1. Judicial District: Second. County: Washoe. Judge: Honorable Connie
14 J. Steinheimer. District Ct. Case No.: CR11-1718B; CR12-0853.

15 2. If the defendant was given a sentence,

16 (a) What is the sentence?

17 Life imprisonment with a possibility of parole, enhanced with use of a
18 deadly weapon.

19 (b) Has the sentence been stayed pending appeal?

20 No.

21 (c) Was defendant admitted to bail pending appeal?

22 No.

23 3. Was counsel in the district court appointed or retained?

24 Both. Currently, appointed.

25 4. Attorney filing this docketing statement: Attorney: David R. Houston,
26 Telephone: 775-786-4188, Firm: The Law Office of David R. Houston, Address:
27 432 Court Street, Reno, Nevada 89501. Client: Appellant, Ernesto M. Gonzalez.

1 5. Is appellate counsel appointed or retained?

2 Provisionally appointed, pending appointment of the Washoe County
3 Public Defender's Office or retention of other private counsel.

4 6. Attorney(s) representing respondent(s): Attorney: Appellate Deputy.
5 Firm: Washoe County District Attorney's Office, Appellate Division, Telephone:
6 775-337-5750, Address: 1 S. Sierra Street, 7th Floor, Reno, Nevada 89501,
7 Client: The State of Nevada.

8 7. Nature of disposition below:

9 Judgment after jury verdict.

10 8. Does this appeal raise issues concerning any of the following:

11 Life sentence.

12 9. Expedited appeals: The court may decide to expedite the appellate
13 process in this matter. Are you in favor of proceeding in such manner?

14 No.

15 10. Pending and prior proceedings in this court. List the case and docket
16 number of all appeals or original proceedings presently or previously pending
17 before this court which are related to this appeal:

18 Order Denying Extraordinary Petition, Gonzalez v. Second Judicial District
19 Court, case no. 62392, filed February 4, 2013.

20 11. Pending and prior proceedings in other courts. List the case name,
21 number and court of all pending and prior proceedings in other courts that are
22 related to this appeal:

23 None to the undersigned's knowledge.

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

26 Appellant was charged with open murder in a shooting death inside of John
27 Asquaga's Nugget during the "Street Vibrations" special event in September of
28

1 2011. Jury found Appellant guilty. Appellant filed a Motion for a New Trial,
2 which was denied. Defendant was sentenced.

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

4 1. Whether the trial court abused its discretion and violated Appellant's
5 Fifth, Sixth and Fourteenth Amendment rights to due process of law and to a fair
6 trial by refusing to give an informant distrust jury instruction or accomplice
7 distrust jury instruction?

8 2. Whether the State violated Appellant's rights to a fair trial and to due
9 process of law per Giglio v. United States by not revealing the actual plea
10 agreement that it had with the State's key witness against the Appellant?

11 3. Whether the trial court abused its discretion and violated the Appellant's
12 Fifth, Sixth and Fourteenth Amendment rights to due process of law and to a fair
13 trial, when it refused to answer legal questions propounded by the jury during
14 deliberation, in spite of the stipulated correct answer, when such stipulated
15 correct answer rationally would have led the jury to a not guilty verdict?

16 4. Other issues as may come to the attention of appellate counsel.

17 14. Constitutional issues. If the State is not a party and if this appeal
18 challenges the constitutionality of a statute or municipal ordinance, have you
19 notified the clerk of this court and the attorney general in accordance with NRAP
20 44 and NRS 30.130?

21 N/A.

22 15. Issues of first-impression or of public interest. Does this appeal
23 present a substantial legal issue of first-impression in this jurisdiction or one
24 affecting an important public interest?

25 Yes. This appeal presents at least one substantial legal issue of first
26 impression.
27
28

1 16. Length of trial. If this action proceeded to trial or evidentiary hearing
2 in the district court, how many days did the trial or evidentiary hearing last?

3 12 days.

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

6 Yes.

7 **TIMELINESS OF NOTICE OF APPEAL**

8 18. Date district court announced decision, sentence or order appealed
9 from:

10 October 3, 2013.

11 19. Date of entry of written judgment or order appeal from:

12 October 4, 2013.

13 20. If this appeal is from an order granting or denying a petition for a writ
14 of *habeas corpus*, indicate the date written notice of entry of judgment or order
15 was served by the district court:

16 N/A.

17 21. If the time for filing the notice of appeal was tolled by a post judgment
18 motion, ...

19 N/A. Although a post - verdict motion was filed, the same was resolved on
20 the same date as the entry of judgment.

21 22. Date notice of appeal filed:

22 October 15, 2013.

23 23. Specify statute or rule governing the time limit for filing the notice of
24 appeal:

25 NRAP 4(b).

26 **SUBSTANTIVE APPEALABILITY**

27 24. Specify statute, rule or other authority that grants this court jurisdiction
28

1 to review from:

2 NRS 177.015(3).

3
4 **VERIFICATION**

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

7 Ernesto M. Gonzalez

8 Name of Appellant

9 12-11-13

Date

David R. Houston

Name of counsel on record

Signature of counsel on record

10 **CERTIFICATE OF SERVICE**

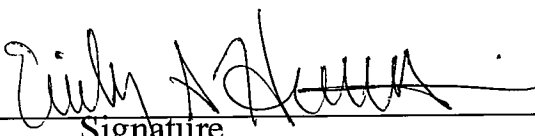
11 I certify that on the 11th day of December, 2013, I served a copy
12 of this completed docketing statement upon all counsel of record:

13 ☒ by personally serving it upon him/her; or

14 ☐ by mailing it by first class mail with sufficient postage prepaid to the
15 following addresses:

16 Washoe County District Attorney's Office,
17 Appellate Division
18 1 S. Sierra St., 7th Floor
19 Reno, NV 89501

20 DATED this 11th day of December, 2013.

21 
22 Signature