

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Dipak Kantilal Desai, Appellant

vs.

The State of Nevada, Respondent

No. 64591

Electronically Filed
Jan 02 2014 12:23 p.m.

DOCKETING STATEMENT

CRIMINAL APPEALS

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

Thane K. Lindeman

Clerk of Supreme Court

GENERAL INFORMATION

1. Judicial District Eighth County Clark
Judge Hon. Valerie Adair District Ct Case No. 10C265107-1

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

Sentences on Counts 1,2, 3, 5-27: varying sentences both concurrent and consecutive (see Notice of Appeal). Count 28: Life with minimum parole eligibility of 120 months to run consecutive to Count 24.

(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 Franny A. Forsman Telephone 702-501-8728

Firm: Law Office of Franny Forsman

Address: P.O. Box 43401, Las Vegas, NV 89116

Client(s) Dipak Kantilal Desai

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, District Attorney Telephone 702-671-2700
Firm: Clark County District Attorney
Address: 200 E. Lewis Ave., Las Vegas, NV 89101

Client(s) State of Nevada

Attorney Catherine Cortez Masto, Attorney General Telephone 775-684-1100
Firm: Attorney General-State of Nevada
Address: 100 N. Carson St., Carson City, NV 89701

Client(s) 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 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 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):

63046: Desai vs. District Court

62641: Desai vs. District Court

61230: Desai vs. District Court

60038: Desai vs. District Court

64609: Lakeman vs. State (co-defendant below); 62877: Lakeman vs. Dist. Ct.

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):

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

The defendant was charged with multiple counts of fraud, theft, and criminal neglect of patients and with Murder in the Second Degree. He was convicted by a jury and sentenced by the court to multiple concurrent and consecutive sentences including a sentence of Life imprisonment

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

All appellate issues have not been developed by appellate counsel pending receipt and review of the transcripts of trial. Issues expected to be raised will include: whether the defendant was constitutionally and statutorily entitled to a hearing to determine his competency to stand trial after reports of an Independent Medical Examiner, a forensic psychiatrist and observations of counsel revealed significant impairments in the defendant's neurologic functioning. Additionally, issues will be raised with regard to violations of the defendant's right to confront witnesses against him, evidentiary rulings which impaired the defendant's right to present a defense and issues challenging the proof with regard to many of the counts of conviction including the charges of Second Degree Murder.

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

This appeal will challenge the constitutionality of a statute. The State is a party to this appeal.

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?

46 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 October 24, 2013

19. Date of entry of written judgment or order appeal from November 13, 2013

(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 December 6, 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

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>x</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.

Dipak Kantalil Desai

Franny A. Forsman

Name of appellant

Name of counsel of record

1/2/14
Date

[Signature]
Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 2nd day of January, 2014, 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 2nd day of January, 2014.

[Signature]
Signature