

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAIMON MONROE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

DOCKETING NO.: 65827

Electronically Filed
Jun 10 2014 09:48 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

**DOCKETING STATEMENT
CRIMINAL APPEALS**

GENERAL INFORMATION

1. **Judicial District:** Eighth; **County:** Clark
Judge: The Honorable Jerome T. Tau, J.;
District Court Case No.: 06C228752-1
2. **If the defendant was given a sentence,**
 - (a) **what is the sentence?**
 - i. Conspiracy to commit a crime;
Min 12 months to maximum 12 months / concurrent
 - ii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
 - iii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
 - iv. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
 - v. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
 - vi. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
 - vii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent

- viii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- ix. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- x. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xi. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xiii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xiv. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xv. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / consecutive
- xvi. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xvii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xviii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xix. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xx. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xxi. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xxii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xxiii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xxiv. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xxv. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent
- xxvi. Receiving, possessing or withholding stolen goods;

Life without the possibility of parole / concurrent
xxvii. Receiving, possessing or withholding stolen goods;
Life without the possibility of parole / concurrent

(b) **has the sentence been stayed during appeal?**

No.

(c) **was defendant admitted to bail pending appeal?**

No.

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

4. **Attorney filing this docketing statement:**

Attorney: Michael H. Schwarz, Esq. **Telephone:** (702) 598-3909

Firm: Law Office of Michael H. Schwarz

Address: 626 S. 7th Street, Las Vegas, Nevada 89101

Client(s): DAIMON MONROE

5. **Is appellate counsel appointed X 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

Firm: Clark County District Attorney's Office

Address: 200 Lewis Avenue, Las Vegas, Nevada, 89155

Telephone: (702) 671-2500

Client(s): State of Nevada

Attorney: Katherine Cortez-Masto

Firm: Nevada Attorney General

Address: 100 N. Carson Street, Carson City, Nevada, 89701-4717

Telephone: (775) 648-1100

Client(s): State of Nevada (on Constitutional challenges)

7. Nature of disposition below:

- G Judgment after bench trial
- G Judgment after jury trial
- G Judgment upon guilty plea
- G Grant of pretrial motion to dismiss
- G Parole/Probation revocation
- G Motion for new trial
 - G Grant
 - G Deny
- G Motion to withdraw guilty plea
 - G Grant
 - G Deny
- G Grant of pretrial habeas
- G Grant of motion to suppress evidence
- X Post-conviction habeas (NRS Chapter 34)
 - G Grant
 - X Deny
- G Other disposition (Specify).

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

- G death sentence
- X life sentence
- G juvenile offender
- G 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?

- G Yes;
- X 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):

Prior Proceedings in Nv. S.Ct.: Docket No.s:

Docket	Type of action	Pro per/counsel	Type Case	Status
63110	Writ-Petition	pro per	criminal	closed
62789	Other	pro per	criminal	closed
60190	Post-Conviction	pro per	criminal	closed
59871	Post-Conviction	pro per	criminal	closed
58171	Direct Appeal	counsel	criminal	closed
56924	<i>Monroe v. LV Metro PD</i>	pro per	civil	closed
52916	Direct Appeal	counsel	criminal	closed
52788	Direct Appeal	counsel	criminal	closed
52234	Direct Appeal	counsel	criminal	closed

- 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): Daimon Monroe (aka: Daimon D. Hoyt, Damon Monroe)**

<u>Name:</u>	<u>Case #</u>	<u>Status</u>
Daimon D. Hoyt	91C103744-3	closed
Daimon D. Hoyt	92C105731	closed
Damon Monroe	95C131125-2	closed
Daimon Monroe	96C137115	closed
Daimon Monroe	06C227874-1	closed
Daimon Monroe	06C228581	closed
Daimon Monroe	06C228752-1	closed
Daimon D. Hoyt	07C237052	Open (sex assault on minor < 14 yrs)
Daimon Monroe	08C241570	closed

- 12. Nature of action. Briefly describe the nature of the action and the results below:**

The Appellant filed a post-conviction writ of habeas corpus to challenge the validity of his conviction below, based upon the ineffective assistance of counsel. The writ was heard and was denied by the lower court, without an evidentiary hearing.

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

1. The order below erred in holding that a Petition cannot raise issues that were raised on direct appeal and that those issues are res judicata.
2. Raising issues in a Post-Conviction Writ of Habeas Corpus challenging the effectiveness of trial or appellate counsel, which were either not raised or were poorly raised at trial or on appeal, are not barred as long as they are raised within the paradigm of ineffective assistance of counsel.

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: X 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: X

Public Interest: Yes: ____ / No: X

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.

7 - Trial days / No Evidentiary Hearing.

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

Yes: ____ / No: X

TIMELINESS OF NOTICE OF APPEAL

- 18. Date district court announced decision, sentence or order appealed from:**

May 20, 2014

- 19. Date of entry of Written judgment or order appealed from: April 20, 2014**
(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 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 X?

- 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: ___N/A___ Date file: _____

New trial: _____N/A_____ Date file: _____

(Newly discovered evidence)

New trial: _____N/A_____ Date file: _____

(Other grounds)

(b) Date of entry of written order resolving motion: ___N/A___

- 22. Date notice of appeal filed: May 27, 2014**

- 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(1)**

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):_____X_____
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.

Daimon Monroe
Name of Appellant

Michael H. Schwarz, Esq.
Name of Counsel of Record

06/09/2014
Date:

/s/ Michael H. Schwarz
Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 9th day of May, 2014, I served a copy of this completed docketing statement upon all counsel of record:

- G by personally serving it upon them; or
- X by mailing it first class mail with sufficient postage prepaid to the following addresses
 - X Steven B. Wolfson, District Attorney
Clark County District Attorney
200 E. Lewis Avenue,
Las Vegas, Nevada 89155
 - X Katherine Cortez-Masto
Nevada Attorney Generals office.
100 Carson Street,
Carson City, Nevada 897010-4717

/s/ Ross Huebner
Michael H. Schwarz, Esquire or an authorized Agent.