

GORDON SILVER
DOMINIC P. GENTILE
Nevada Bar No. 1923
Email: dgentile@gordonsilver.com
VINCENT SAVARESE III
Nevada Bar No. 2467
Email: vsavarese@gordonsilver.com
KORY L. KAPLAN
Nevada Bar No. 13164
Email: kkaplan@gordonsilver.com
3960 Howard Hughes Pkwy., 9th Floor
Las Vegas, Nevada 89169
Tel: (702) 796-5555
Fax: (702) 369-2666
ANJALI D. WEBSTER
Nevada Bar No. 12515
Email: awebster@gordonsilver.com
100 West Liberty Street, Suite 940
Reno, Nevada 89501
Tel: (775) 343-7500
Fax: (702) 786-0131
Attorneys for Defendant/Appellant Mazen Alotaibi

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Tracie K. Lindeman
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

MAZEN ALOTAIBI,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. 67380

District Court Case No.: C-13-287173-1
DEPT. XXIII

**APPELLANT'S DOCKETING
STATEMENT IN A CRIMINAL APPEAL**

GENERAL INFORMATION

1. This is an appeal from the final judgment and sentence imposed upon the defendant in a criminal case by the Eighth Judicial District Court in and for the County of Clark, State of Nevada, the Honorable, Stefany Miley, Department Number 23. The District Court Case Number is C-13-287173-1.

2. The Defendant was charged by Information with the following offenses, each of which was alleged therein to have been committed on or about December 21, 2012, at and within Clark County, Nevada: Count 1 – Burglary (Category B Felony pursuant to NRS § 205.060); Count 2 – First Degree Kidnapping (Category A Felony pursuant to NRS §§ 200.310, 200.320); Count 3 –

1 Sexual Assault With A Minor Under Fourteen Years Of Age (Category A Felony pursuant to
2 NRS §§ 200.364, 200.366); Count 4 – Lewdness With A Child Under Fourteen Years Of Age
3 (Category A Felony pursuant to NRS § 201.230); Count 5 – Sexual Assault With A Minor Under
4 Fourteen Years Of Age (Category A Felony pursuant to NRS §§ 200.364, 200.366); Count 6 –
5 Lewdness With A Child Under Fourteen Years Of Age (Category A Felony pursuant to NRS §
6 201.230); Count 7 – Lewdness With A Child Under Fourteen Years Of Age (Category A Felony
7 pursuant to NRS § 201.230); Count 8 – Lewdness With A Child Under Fourteen Years Of Age
8 (Category A Felony pursuant to NRS § 201.230); and Count 9 – Coercion (Sexually Motivated)
9 (Category B Felony pursuant to NRS §§207.190, 207.193, 175.547).

10 3. The Defendant entered pleas of not guilty with respect to each and every count of the
11 information.

12 4. Following a jury trial, verdicts of guilty were returned with respect to Counts 1, 2, 3, 5, 7,
13 8 and 9. The Defendant was acquitted with respect to Counts 4 and 6.

14 5. On January 28, 2015 and February 2, 2015, the Defendant was sentenced with respect to
15 the counts of conviction as follows: Count 1 – a maximum of forty-eight (48) months of
16 imprisonment with a minimum parole eligibility of twelve (12) months; Count 2 – a maximum of
17 fifteen (15) years of imprisonment with parole eligibility after five (5) years of imprisonment
18 have been served, concurrent with Count 1; Count 3 – life imprisonment with parole eligibility
19 after thirty-five (35) years of imprisonment have been served, concurrent with Count 2; Count 5
20 – life imprisonment with parole eligibility after thirty-five (35) years of imprisonment have been
21 served, concurrent with Count 3; Count 7 – life imprisonment with parole eligibility after ten
22 (10) years of imprisonment have been served, concurrent with Count 5; Count 8 – life
23 imprisonment with parole eligibility after ten (10) years of imprisonment have been served,
24 concurrent with Count 7, with seven hundred fifty-eight (758) days credit for time served; Count
25 9 – credit for time served. The Defendant was further sentenced to a *special sentence* of lifetime
26 supervision to commence upon release from any term of imprisonment, probation or parole;
27 ordered to register as a sex offender in accordance with NRS § 179D.460 within forty-eight (48)
28 hours after any release from custody; and ordered to pay Restitution in the amount of \$2,723.94,

1 a \$150.00 DNA Analysis Fee, and an \$25.00 Administrative Assessment Fee. The district court
2 further ordered that before the Defendant is eligible for parole, a panel consisting of the
3 Administrator of Mental Health and Development Services of the Nevada Department of Human
4 Resources or his designee; the Director of the Nevada Department of Corrections or his
5 designee; and either a psychologist or a psychiatrist licensed to practice in the State of Nevada
6 must certify that the Defendant does not present a high risk to re-offend based on current
7 accepted standards of assessment. On February 5, 2015, the Judgment of Conviction in this
8 matter was filed by the district court. Defendant/Appellant Alotaibi appeals from the Judgment
9 of Conviction and all rulings, decisions and orders of the district court ancillary thereto; and from
10 the sentences imposed by the district court with respect to the counts of conviction.

11 6. The sentences imposed have not been stayed pending appeal.

12 7. The Defendant was not admitted to bail pending appeal.

13 8. Defense counsel in the district court was retained.

14 9. The attorneys filing this Docketing statement are: Dominic P. Gentile, Esq., Vincent
15 Savarese III, Esq., and Kory L. Kaplan Esq., of the law firm of Gordon Silver, 3960 Howard
16 Hughes Parkway, Ninth Floor, Las Vegas, Nevada 89169, and Anjali D. Webster, Esq., of the
17 law firm of Gordon Silver, 100 West Liberty Street, Suite 940, Reno, Nevada 89501.

18 10. The above-named appellate counsel for the Defendant (*see* Answer number 9, *supra*) are
19 retained.

20 11. Defendant Mazen Alotaibi is the only Appellant in this matter.

21 12. To the best of the knowledge and belief of the attorneys filing this Docketing Statement,
22 the attorneys representing Respondent State of Nevada are: Steven B. Wolfson, District Attorney
23 in and for Clark County, Nevada; Jacqueline M. Bluth, Chief Deputy District Attorney; and
24 Mary Kay Holthus, Chief Deputy District Attorney, of the Clark County District Attorney's
25 Office Criminal Division, Regional Justice Center, 200 Lewis Avenue, Third Floor, Las Vegas,
26 Nevada 89155.

27 13. The following dispositions below are implicated by this appeal:

28 A. Denial of motion to suppress evidence;

1 B. Judgment of conviction following jury trial; and

2 C. Denial of motion for new trial

3 14. This appeal does raise issues concerning, *inter alia*, pretrial proceedings and a life
4 sentence.

5 15. The attorneys filing this Docketing Statement are not in favor of expediting the appellate
6 process in this case.

7 16. There are no other present or previous appeals or original proceedings pending before
8 this Court which are related to the instant appeal.

9 17. There are no other pending or prior proceedings in other courts which are related to the
10 instant appeal.

11 18. This appeal presents the following issues:

12 A. Whether the district court erred in denying the Defendant's pretrial motion
13 to suppress evidence?

14 B. Whether the district court erred in failing to instruct the jury with respect
15 to lesser-included offenses?

16 C. Whether the Defendant was deprived of the effective assistance of counsel
17 for his defense at trial?

18 D. Whether the district court erred in denying The Defendant's post-trial
19 motion for new trial?

20 E. Whether the sentences upon the Defendant violate the constitutional
21 prohibition against cruel and unusual punishments and/or the constitutional imperative of due
22 process of law?

23 19. All of the above-identified issues presented in this appeal (*see* Answer number 18,
24 *supra*) implicate matters affecting important public interests.

25 20. An evidentiary hearing was conducted with respect to the Defendant's pretrial motion to
26 suppress evidence on August 1, 2013. Trial lasted ten (10) days, including jury selection.

27 21. The attorneys filing this Docketing Statement would object to the submission of this
28 appeal for disposition without oral argument.

1 **TIMELINESS OF NOTICE OF APPEAL**

2 22. The district court denied the Defendant's motion to suppress evidence on August 14,
3 2013.

4 23. The district court orally announced its imposition of judgment of conviction on
5 January 28, 2015 and sentenced the Defendant on the counts of conviction on January 28, 2015
6 and February 5, 2015.

7 24. The order of the district court denying the Defendant's motion for new trial was
8 entered on November 18, 2014.

9 25. Written judgment of conviction was entered by the district court on February 5,
10 2015.

11 26. This appeal is not from an order granting or denying a petition for a writ of habeas
12 corpus.

13 27. The time for filing the notice of appeal was not tolled by a post judgment motion.

14 28. Notice of appeal was filed on February 5, 2015.

15 29. The time limit for filing the notice of appeal in this case is governed by NRAP
16 4(b)(1)(A).

17 **SUBSTANTIVE APPEALABILITY**

18 30. NRS 177.015(1)(b) grants this Court jurisdiction to review the denial of the
19 Defendant's motion for new trial.

20 31. NRS 177.015(3) grants this Court jurisdiction to review the final judgment of
21 conviction with respect to the counts of conviction in this case.

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VERIFICATION

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

Mazen Alotaibi
Name of Appellant

2-27-2015
Date

Dated this 27th day of February, 2015.

GORDON SILVER



DOMINIC P. GENTILE

Nevada Bar No. 1923

VINCENT SAVARESE III

Nevada Bar No. 2467

KORY L. KAPLAN

Nevada Bar No. 13164

3960 Howard Hughes Pkwy., 9th Floor

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(702) 796-5555

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, Nevada 89501

(775) 343-7500

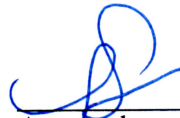
Attorneys for Defendant/Appellant,

Mazen Alotaibi

CERTIFICATE OF SERVICE

I certify that on the 27 day of February, 2015, I served a copy of this completed docketing statement upon all counsel of record, by mailing it by first class mail with sufficient postage prepaid to the following addressed to:

Clark County District Attorney's Office – Criminal Division
Mary Kay Holthus, Chief Deputy District Attorney
Jacqueline M. Bluth, Chief Deputy District Attorney
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155
Email: mary.holthus@clarkcountyda.com
Email: jacqueline.bluth@clarkcountyda.com



An employee of Gordon Silver