

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

SHAWN RUSSELL HARTE,  
Appellant,

vs.

THE STATE OF NEVADA,  
Respondent.

No. 67519

DOCKETING STATEMENT  
CRIMINAL APPEALS

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

Electronically Filed  
Mar 13 2015 12:33 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

GENERAL INFORMATION

1. Judicial District Second County Washoe

Judge Hon. Connie J. Steinheimer District Ct. Case No. CR98-0074

2. If the defendant was given a sentence,

(a) what is the sentence?

Life without the possibility of parole

(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 filling this docketing statement:

Attorney John Reese Petty Telephone (775) 337-4827

Firm Washoe County Public Defender's Office

Address: 350 S. Center Street, 5th Floor, P.O. Box 11130, Reno, Nevada 89520-0027

Client(s) Appellant. Shawn Russell Harte

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.**

**4. Attorney(s) representing respondent(s):**

Attorney Terrence P. McCarthy Telephone (775) 337-5750

Firm Washoe County District Attorney's Office

Address: 1 S. Sierra Street, 7th Floor, P.O. Box 11130, Reno, Nevada 89520

Client(s) Respondent, The State of Nevada

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address: \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**7. Nature of disposition below:**

- ☐ Judgment after bench trial
- ☒ Judgment after jury verdict
- ☐ Judgment upon guilty plea
- ☐ Grant of pretrial motion to dismiss
- ☐ Parole/probation revocation
- ☐ Motion for new trial
  - ☐ grant      ☐ denial
- ☐ Motion to withdraw guilty plea
  - ☐ grant      ☐ denial

- ☐ Grant of pretrial habeas
- ☐ Grant of motion to suppress evidence
- ☐ Post-conviction habeas (NRS ch. 34)
  - ☐ grant      ☐ denial
- ☐ Other disposition (specify):

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

☐ death sentence

☐ juvenile offender

☒ life sentence

☐ 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):

State v. Harte, docket No. 50161 (124 Nev. 969 (2008))

Harte v. State, docket No. 34227 (116 Nev. 1054 (2000))

Harte v. State, docket No. 43877

**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:

Mr. Harte and two co-defendants, Latisha Babb and Weston Sirex murdered a Reno cab driver during the course of a robbery. Mr. Harte was sentenced to death. In 2008, this Court determined that sole aggravating circumstance was invalid and remanded for a new penalty hearing. State v. Harte, 124 Nev. 969 (2008). At the subsequent penalty hearing the jury returned a verdict of life without te possibility of parole.

**13. Issues on appeal.** State specifically all issues in this appeal (attach separate sheets as necessary):

Did Court err in allowing the State to advise the jury of the sentences received by the co-defendants?

Did Court err in giving an "equal and exact" instruction to the jury?

Was the jury given unguided discretion?

Was the jury's sentence arbitrary and capricious?

**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?

6 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 Feb 2, 2015

19. Date of entry of written judgment or order appealed from Feb 2, 2015

(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 (newly  
discovered evidence) \_\_\_\_\_ Date filed \_\_\_\_\_

New trial (other grounds) \_\_\_\_\_ Date filed \_\_\_\_\_

(b) Date of entry of written order resolving motion \_\_\_\_\_

22. Date notice of appeal filed March 1, 2015

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 34.560(2) _____
NRS 177.015(3) XX _____	Other (specify) _____
NRS 177.055 _____	

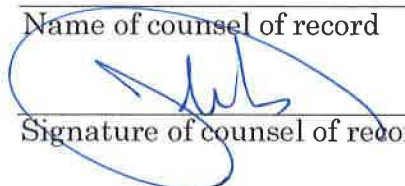
### VERIFICATION

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

Shawn Russell Harte  
\_\_\_\_\_  
Name of appellant

John Reese Petty  
\_\_\_\_\_  
Name of counsel of record

March 13, 2015  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature of counsel of record

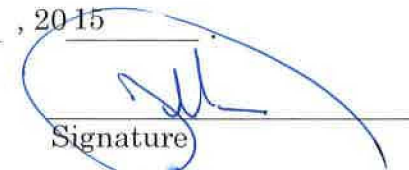
### CERTIFICATE OF SERVICE

I certify that on the 13th <sup>March</sup> day of 20 15, I served a copy of this completed docketing statement upon all counsel of record:

☒ By personally serving it upon him/her<sup>\*</sup>; or

☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

\*Via this Court's Master Service List /Eflex filing

Dated this 13th \_\_\_\_\_ day of March \_\_\_\_\_, 2015  
  
\_\_\_\_\_  
Signature