

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

KEVIN M. GIPSON,
Appellant,
vs.
STATE OF NEVADA,
Respondent.

No. 69174

Electronically Filed
Feb 12 2016 04:17 p.m.

DOCKETING STACIE K. LINDEN
CRIMINAL APPEALS Clerk of Supreme Court

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

GENERAL INFORMATION

1. Judicial District Eighth County Clark
Judge David Barker District Ct Case No. 10C264079

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

Murder with use of Deadly Weapon - Twenty (20) years with a consecutive term of Two Hundred Forty (240) months maximum and Ninety-six (96) months minimum with Six Hundred Eighty-six (686) days credit for time served.

(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 CARMINE J. COLUCCI, ESQ. Telephone 702-384-1274

Firm: CARMINE J. COLUCCI, CHTD.

Address: 629 South Sixth Street
Las Vegas, NV 89101

Client(s) KEVIN M. GIPSON, APPELLANT

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 Telephone 702-671-2500
Firm: Clark County District Attorney
Address: 200 Lewis Avenue
Las Vegas, NV 89155
Client(s) State of Nevada

Attorney Adam Paul Laxalt Telephone _____
Firm: Attorney General
Address: 100 North Carson Street
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 type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Grant of motion to suppress evidence |
| <input type="checkbox"/> Judgment upon guilty plea | <input checked="" type="checkbox"/> Post-conviction habeas (NRS ch. 34) |
| <input type="checkbox"/> Grant of pretrial motion to dismiss | <input type="checkbox"/> grant <input checked="" 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):

Kevin Gipson v. The State of Nevada - 62071

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):

Kevin Gipson v Dwight Nevin, Warden, High Desert State Prison - 10C264079

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

Appellant, Kevin M. Gipson appeals the District Court's Findings of Fact Conclusions of Law and Order denying his Petition for Writ of Habeas Corpus (Post-Conviction). Appellant was convicted of: Count One: Murder, Count 2 - Degrees of Murder, Count 3 - Use of a Deadly Weapon or Tear Gas in Commission of Crime. A Judgment of Conviction was entered on March 13, 2012. He then filed a Petition for Writ of Habeas Corpus (Post-Conviction) and an Evidentiary Hearing was held on September 10, 2015. The Findings of Fact Conclusions of Law and Order was filed on October 26, 2015. The court denied the petition. This appeal follows.

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

1. Whether the District Court abused its discretion when it denied Appellant's Petition for Writ of Habeas Corpus (Post-conviction).

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?

N/A 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 10/22/15

19. Date of entry of written judgment or order appeal from 10/26/15

(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

N/A

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 N/A

22. Date notice of appeal filed 11/12/15

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) _____	Other (specify) <u>NRAP 4(b)</u>
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.

KEVIN M. GIPSON

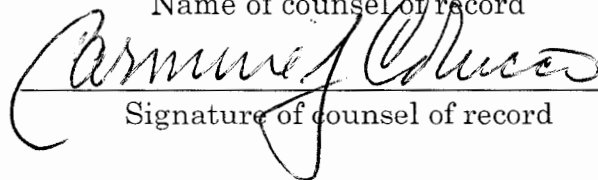
Name of appellant

2/12/16

Date

CARMINE J. COLUCCI, ESQ.

Name of counsel of record



Signature of counsel of record


CERTIFICATE OF SERVICE

I certify that on the ____ day of ____, 20¹⁶, 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 12th day of February, 20¹⁶.


Signature