IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS HIDALGO, JR.,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 71458

Electronically Filed
Jan 13 2017 08:42 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

DOCKETING STATEMENT
CRIMINAL APPEALS

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

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions.

1. **Judicial District:** Eighth **County:** Clark
District Ct. Case No.: 08C241394

2. **If the defendant was given a sentence,**

(a) **what is the sentence?**

Appellant Luis Hidalgo, Jr. is currently serving a term of twelve months in the Clark County Detention Center for Conspiracy to Commit Battery with a Deadly Weapon in violation of NRS 199.480 and 200.481, and a consecutive term of 120 months to life for Second Degree Murder With a Deadly Weapon, a violation of NRS 200.010, 200.030, and 193.165.

(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(s) filing this docketing statement:**

Attorney(s): Margaret A. McLetchie **Telephone:** (702) 728-5300
Firm: McLetchie Shell, LLC
Address: 701 East Bridger Avenue, Suite 520
Las Vegas, Nevada 89101
Client(s): Luis Hidalgo, Jr.

5. **Is appellate counsel appointed ■ or retained □ ?**

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

6. Attorney(s) representing respondent(s):

Attorney(s): Steven Owens **Telephone:** (702) 671-2750
Firm: Office of the Clark County District Attorney
Address: 200 Lewis Avenue, Third Floor
Las Vegas, NV 89155
Client(s): The State of Nevada

Attorney(s): Adam P. Laxalt **Telephone:** (775) 684-1100
Firm: Office of the Attorney General
Address: 100 North Carson Street
Carson City, NV 89701
Client(s): The State of Nevada

7. Nature of disposition below (check all that apply):

□ 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
■ 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):

Hidalgo v. State, Case No. 54209

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):

State v. Hidalgo, Eight Judicial District Court Case No. 08C241394

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

Appellant Luis Hidalgo, Jr. appeals from the denial of his Supplemental Petition for Writ of Habeas Corpus.

Following a fourteen-day jury trial, Mr. Hidalgo was convicted of one count of Conspiracy to Commit Battery with a Deadly Weapon or Battery Resulting in Substantial Bodily Harm, and one count of Second Degree Murder with Use of a Deadly Weapon. These convictions stem from Mr. Hidalgo's alleged participation in the murder of Timothy Hadland on May 19, 2005. The case involved multiple co-defendants, several of whom received far shorter sentences in exchange for cooperating with the State.

In his Petition for Writ of Habeas Corpus (Post-Conviction), Mr. Hidalgo asserted several claims for relief related to the ineffective assistance of counsel. Mr. Hidalgo asserted that trial counsel had several conflicts of interest that rendered his representation fundamentally ineffective, that trial counsel failed to provide effective assistance of counsel during the pretrial stages of litigation, and that counsel failed to provide effective assistance of counsel during the appellate proceedings. Mr. Hidalgo also asserted that the

failings of trial counsel, taken cumulatively, deprived him of his Sixth Amendment right to adequate representation.

Following the completion of briefing, the district court denied Mr. Hidalgo's request for an evidentiary hearing, and entered an order denying all of his claims.

13. Issues on appeal. State specifically all issues in this appeal:

Mr. Hidalgo appeals the district court's order denying the claims raised in his supplemental petition for a writ of habeas corpus and its subsequent supplements thereto. Those claims are:

1. Whether the district court erred in denying Mr. Hidalgo's petition for a writ of habeas corpus without conducting an evidentiary hearing.

2. Whether trial counsel's multiple substantial conflicts of interest deprived Mr. Hidalgo of effective assistance of counsel.

3. Whether trial counsel provided ineffective assistance of counsel at the pretrial litigation stage by conceding to the State's motion to consolidate Mr. Hidalgo's case with the cases of his co-defendants.

4. Whether trial counsel provided ineffective assistance of counsel by failing to investigate and use available evidence to effectively impeach the credibility of Anabel Espindola, one of the co-defendants in this matter who became the State's chief witness.

5. Whether appellate counsel was ineffective for failing to challenge the

admission of prejudicial hearsay at trial.

7. Whether Mr. Hidalgo's conviction and sentence are constitutionally inform due to the cumulative effect of trial counsel's deficient performance.

14. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

■ N/A
□ No
□ Yes
If not, explain:

15. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This case is presumptively retained by the Supreme Court pursuant to Nevada Rule of Appellate Procedure 17(a)(2) because it is an appeal from the denial of a post-conviction petition for a writ of habeas corpus.

16. 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

17. 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?

14 days.

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

□ Yes ■ No

TIMELINESS OF NOTICE OF APPEAL

19. Date district court announced decision, sentence or order appealed from:

August 11, 2016.

20. Date of entry of written judgment or order appealed from:

September 19, 2016.

21. 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 it served by delivery □ or by mail ■

22. If the time for filing the notice of appeal was tolled by a post-judgment motion,

(a) Specify the type of motion, the date of filing of the motion:

□ Arrest Judgment _____ Date of filing: _____

□ New trial (newly discovered evidence) _____ Date of filing: _____

□ New trial (other grounds) _____ Date of filing: _____

(b) Date of entry of written order resolving motion: _____

23. Date of notice of appeal filed: October 3, 2016.

24. 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

The time limit for filing the notice of appeal in this matter is governed by NRS 34.575(1) and Nevada Rule of Appellate Procedure 4(b)(1)(A).

SUBSTANTIVE APPEALABILITY

25. Specify the 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 34.560(2) _____
NRS 177.015(3) _____	Other (specify) NRAP 4
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.

Luis Hidalgo, Jr.	Margaret A. McLetchie
Name of Appellant	Name of counsel of record
January 12, 2017	
Date	Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 12th day of January, 2017, 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):**

Steven Owens
Office of the Clark County District Attorney
200 Lewis Avenue, Third Floor
Las Vegas, NV 89155

Adam P. Laxalt
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

Dated this 12th day of January, 2017.

Signature