



IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Electronically Filed
Jan 17 2017 10:45 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

RYAN MATTHEW LIPSITZ,

No. 72057

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

DOCKETING STATEMENT

CRIMINAL APPEALS

(Including pretrial and post-conviction
habeas corpus and petitions for post-
conviction relief)

GENERAL INFORMATION

- Judicial District Eighth County Clark
Judge Eric Johnson District Ct. No. C-16-316678-1
- If the defendant was given a sentence,
(a) what is the sentence? Ct. 1 - Indecent Exposure; Cts. 2 and 5 - Sexual Assault; Ct. 3 - Attempt Sexual Assault; Ct. 4 - Battery With Intent to Commit Sexual Assault; Ct. 6 - Open or Gross Lewdness; Ct. 8 - Coercion Sexually Motivated and sentenced to \$25 Admin. Fee; \$150 DNA analysis fee; genetic testing plus \$3 DNA collection fee; Ct. 1 - 364 in CCDC; Ct. 2 - 10 years to Life, concurrent with Ct. 1 - Ct. 3 - 30-96 months concurrent with Ct. 2; Ct. 4 - 2 years to Life, concurrent with Ct. 3; Ct. 5 - 10 years to Life, consecutive to Ct. 4; Ct. 6 - 364 days in CCDC, concurrent with Ct. 5; and Ct. 8 - 12-36 months concurrent with Ct. 6; 229 credit for time served. Not guilty as to Ct. 7. The Aggregate total sentence is Life with a minimum of 20 years. Further special sentence of Lifetime Supervision, before the Defendant is eligible for parole must be certified by panel that he is not a high risk to re-offend based on current accepted standards of assessment.

(b) has the sentence been stayed pending appeal? No.

(c) was defendant admitted to bail pending appeal? No.

- Was counsel in district court appointed XX or retained ?

- Attorney filing this docketing statement:

Attorney Telephone 455-4576

Firm Clark County Public Defender's Office

Address 309 S. Third St., #226

Las Vegas, Nevada 89155

Client Ryan Matthew Lipsitz

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.

- Is appellate counsel appointed X or retained ?

- Attorney(s) representing respondent(s):

Attorney STEVEN B. WOLFSON

Telephone 455-4741

Firm Clark County District Attorney's Office

Address 200 S. Third St.

Las Vegas, Nevada 89155

Client(s) The State of Nevada

Attorney _____ Telephone _____
Firm _____
Address _____

Client(s) _____
(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 |
| X Judgment after jury verdict | <input type="checkbox"/> Grant of motion to suppress evidence |
| <input type="checkbox"/> Judgment upon guilty plea | <input type="checkbox"/> Post-conviction relief (NRS ch. 177) |
| <input type="checkbox"/> Grant of pretrial motion to dismiss | <input type="checkbox"/> grant <input type="checkbox"/> denial |
| <input type="checkbox"/> Parole/Probation revocation | <input type="checkbox"/> Post-conviction habeas (NRS ch. 34) |
| <input type="checkbox"/> Motion for new trial | <input type="checkbox"/> grant <input type="checkbox"/> denial |
| <input type="checkbox"/> grant <input type="checkbox"/> denial | <input type="checkbox"/> Other disposition (specify) _____ |
| <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:**

- | | |
|---|---|
| <input type="checkbox"/> death sentence | <input type="checkbox"/> juvenile offender |
| X life sentence | <input type="checkbox"/> 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 XX

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) N/A

11. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., habeas corpus proceedings in state or federal court, bifurcated proceedings against co-defendants): N/A

12. **Nature of action:** Briefly describe the nature of the action and the result below: Appellate counsel did not serve as trial counsel; has not completed a thorough review of the lower court proceedings; and is therefore unable to concisely state the nature of the action at the present time.

13. **Issues on appeal.** State specifically all issue(s) in this appeal: Appellate counsel did not serve as trial counsel; has not completed a thorough review of the lower court proceedings; and is therefore unable to concisely state the principal issues on appeal at the present time.

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 with NRAP 44 and NRS 30.130?

N/A _____ Yes _____ No _____ Unknown at this time.

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. Subsection (b) of Rule 17 provides that certain cases shall "presumptively" be heard and decided by the court of appeals. NOT INCLUDED in the cases to be "presumptively" assigned to the court of appeals are appeals of convictions for judgments resulting from jury trials where the defendant was convicted of a Category A or Category B felony.

The Nevada Revised Statutes define the categories that apply to all felonies. **NRS 193.130.** All criminal convictions where the death penalty or a life sentence is imposed are Category A felonies.

In this case, the Judgment of Conviction, filed December 13, 2016, convicted Ryan Lipsitz of four Category A felonies; and two category B felonies; he received three life sentences for convictions for Sexual Assault and Battery with intent to Commit Sexual Assault.

Because NO PROVISION of the Nevada Rules of Appellate Procedure hint that a Category A or B felonies resulting from a jury trial should be assigned to the Court of Appeals, and the provision "presumptively" assigning certain cases to the court of appeals expressly excludes cases involving Category A and B felonies resulting from jury trials, the Appellant respectfully suggests that the Supreme Court should retain this case for resolution.

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 XX
Public interest: Yes _____ No XX

17. **Length of trial.** If this action proceeded to trial in the district court, how many days did the trial last?

6 days.

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

Yes XX No _____

TIMELINESS OF NOTICE OF APPEAL

19. Date district court announced decision, sentence or order appealed from 11/29/16
20. Date of entry of written judgment or order appealed from 12/13/16

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

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 N/A

(a) Was service by delivery or by mail _____ (specify).

22. 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 _____

23. Date notice of appeal filed 12/22/16

24. Specify statute or rule governing the time limit for filing the notice of appeal, e.g.,
NRAP 4(b), NRS 34.710, NRS 34.815, NRS 177.015(2), or other NRAP 4(b)

SUBSTANTIVE APPEALABILITY

25. Specify statute, rule or other authority which grants this court jurisdiction to review the judgment or order appealed from:

NRS 177.015(1) (b)	_____	NRS 34.710(3)	_____
NRS 177.015(2)	_____	NRS 34.710(4)	_____
NRS 177.055	_____	NRS 34.815	_____
NRS 177.385	_____	NRS 177.015(3)	<u>XX</u>

VERIFICATION

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

Ryan Matthew Lipsitz
Name of appellant

Howard S. Brooks, #3374
Name of counsel or record

January 17, 2017
Date

/s/ Howard S. Brooks
Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 17th 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 District Attorney Appellate; or
☒ by mailing it by first class mail with sufficient postage prepaid to the following address(es):

STEVEN B. WOLFSON
Clark County District Attorney
Attn: Appellate Division
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155

Dated this 17th day of January, 2017.

/s/ Carrie M. Connolly
Signature