IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
May 04 2017 09:41 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

INDICATE FULL CAPTION:

ALFRED C. HARVEY,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 72829

DOCKETING STATEMENT
CRIMINAL APPEALS
(Including pretrial and post-conviction habeas corpus and petitions for post-conviction relief)

GENERAL INFORMATION

1. Judicial District Eighth County Clark
Judge Douglas Smith District Ct. No. C-16-314260-1

2. If the defendant was given a sentence,
(a) what is the sentence? Robbery and sentenced to $25 Admin. Fee; $250 Indigent Defense Civil Assessment Fee and $150 DNA analysis fee including genetic markers plus $3 DNA Collection Fee; 36-144 months in prison with 344 days CTS. Correction to the Presentence Investigation (PSI) Report: The Defendant at this point, disavows any gang affiliation.

(b) has the sentence been stayed pending appeal? No.
(c) was defendant admitted to bail pending appeal? No.

3. Was counsel in district court appointed XX or retained _____?

4. **Attorney filing this docketing statement:**

Attorney Sharon G. Dickinson, #3710 Telephone 455-4576
Firm Clark County Public Defender's Office
Address 309 S. Third St., #226
Las Vegas, Nevada 89155
Client Alfred C. Harvey

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.

5. Is appellate counsel appointed X or retained _____?

6. **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 _____

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Client(s) _____
(List additional counsel on separate sheet if necessary)

7. **Nature of disposition below:**

- ☐ Judgment after bench trial
- X Judgment after jury verdict
- ☐ Judgment upon guilt 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 relief (NRS ch. 177)
  - ☐ grant ☐ denial
- ☐ 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 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 States 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 persons convicted of Category A and Category B felonies.
No provision of the Nevada Rules of Appellate Procedure suggests that Category A or Category B felonies should be assigned to the court of appeals for resolution.
Pursuant to the Judgment of Conviction, Mr. Harvey was adjudicated guilty of one count of Robbery, which is classified as a "category B" felony.
That because this case is a Category B felony, and because the provisions that "presumptively" assign certain cases to the Court of Appeals expressly exclude cases involving Category B felonies, the Appellant respectfully requests this Court 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?

4 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 03/08/17

20. Date of entry of written judgment or order appealed from 03/17/17

(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 04/10/17

24. Specify statue 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)	XX

VERIFICATION

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

Alfred C. Harvey
Name of appellant

SHARON G. DICKINSON, #3710
Name of counsel or record

May 4, 2017
Date

/s/ Sharon G. Dickinson,
Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 4th day of May, 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

X 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 4th day of May, 2017.

/s/ Carrie M. Connolly
Signature