

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

HELEN NATKO,
Appellant

vs.

THE STATE OF NEVADA,
Respondent

No. 73048

**DOCKETING STATEMENT
CRIMINAL APPEALS**

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

Electronically Filed
May 31 2017 09:11 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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.

Revised December 2015

1. Judicial District Eighth County Clark

Judge William Kephart District Ct. Case No. C-16-313571-1

2. If the defendant was given a sentence,

(a) what is the sentence?

Sentencing is scheduled for July 31, 2017.

(b) has the sentence been stayed pending appeal?

Not Applicable

(c) was defendant admitted to bail pending appeal?

Not Applicable

3. Was counsel in the district court appointed ☐ or retained ☒ ?

4. Attorney filling this docketing statement:

Attorney Daniel T. Foley, Esq. Telephone 702-384-2070

Firm Foley & Oakes, PC

Address:

626 So. 8th Street, Las Vegas, NV 89101

Client(s) Helen Natko

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 Jay P. Raman Telephone 702-671-2500

Firm Clark County District Attorney's Office

Address: 200 Lewis Avenue, Las Vegas, NV 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 |
| <input checked="" type="checkbox"/> 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 habeas (NRS ch. 34) |
| <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"/> 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:

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

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):

Not Applicable

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):

Not Applicable

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

Two criminal charges, for theft (NRS205.0832, NRS205.0835.4 - NOC 55991) and exploitation of a vulnerable person (NRS200.5092, NRS200.5099 - NOC 50304) were filed against Helen Natko for her withdrawal of \$195,000 from her joint bank account with Delford Mencarelli on July 5, 2013 and Helen Natko's return of the \$195,000 to her same joint account on July 31, 2013. There were no allegations that any damages were suffered by any person and there was no claim for restitution. The result in District Court was a jury verdict of guilty against Helen Natko on both criminal charges, which are both Class B Felonies.

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

1. Judge Kephart erred when he gave jury instruction #18 "A person's status as a joint account holder does not by itself provide lawful authority to use or transfer another's assets for their own benefit". Walch v. State, 112 Nev. 25, 909 P.2d 1184 (1996).
2. Not sufficient evidence to prove that Ms. Natko intended to permanently deprive Mr. Mencarelli of his money.
3. Not sufficient evidence to prove willful, knowing, felonious, conversion of Mr. Mencarelli's money.

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. 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:

The case involves the conviction of Ms. Natko of two Class B felonies. The case is presumptively retained by the Supreme Court because there are no subparagraphs under NRAP 17(b) that apply.

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?

7 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 April 11, 2017

20. Date of entry of written judgment or order appealed from April 11, 2017

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

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 service 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, 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 _____

23. Date notice of appeal filed May 5, 2017

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

NRAP 4 (b)

SUBSTANTIVE APPEALABILITY

25. 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) _____ X	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.

Helen Natko

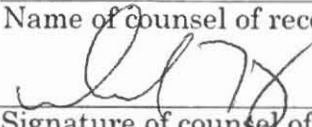
Name of appellant

5/30/17

Date

Daniel T. Foley

Name of counsel of record



Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 30th day of 20 17, 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):

Jay P. Raman
Attorneys for the State of Nevada
200 Lewis Avenue
Las Vegas, NV 89155

Dated this 30th day of May, 20 17.



Signature