

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

JOHN FRANCIS DUNHAM,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

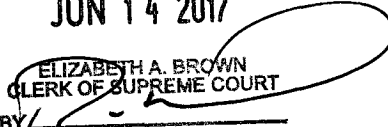
No. 73143

DOCKETING STATEMENT  
CRIMINAL APPEALS

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

**FILED**

JUN 14 2017

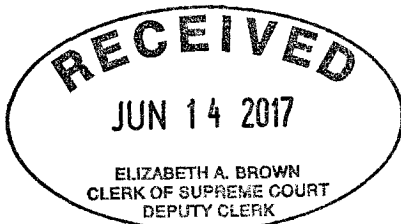
ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

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.



17-19671

1. Judicial District Ninth Judicial District County Douglas

Judge The Honorable Nathan Tod Young District Ct. Case No. 16-CR-0159

2. If the defendant was given a sentence,

(a) what is the sentence?

Imprisonment in the Nevada Department of Corrections for a maximum term of 96 (ninety six) months with a minimum parole eligibility of 38 (thirty eight) months.

(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 filling this docketing statement:**

Attorney Kristine L. Brown Telephone 775-783-8642

Firm The Law Office of Kristine L. Brown, LLC

Address: 1190 High School Street, Suite A  
Gardnerville, NV 89410

Client(s) John Francis Dunham

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 Richard B. Casper

Telephone 775-782-9800

Firm Douglas County District Attorney's Office

Address: P.O. Box 218

Minden, NV 89423

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:**

☐ 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

☐ juvenile offender

☐ life sentence

☐ 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):

NA

**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):

NA

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

The appellant was charged by Information with Burglary, a violation of NRS 205.060, a category B felony and Home Invasion, a violation of NRS 205.067 a category B felony. The appellant pled "not guilty" to both charges. A trial was scheduled to commence on February 13, 2017.

The matter proceeded to jury trial. On February 15, 2017, the jury returned a verdict of Guilty on the charge of Home Invasion and Not Guilty on the charge of Burglary. On April 14, 2017, the appellant appeared in court with counsel for sentencing. The appellant was sentenced to imprisonment in the Nevada Department of Corrections for a maximum term of 96 (ninety six) months with a minimum parole eligibility of 38 (thirty eight) months. The Judgment of Conviction was filed April 19, 2017.

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

1. Whether the court abused its discretion in failing to give the proffered jury instruction defining the term "reside" as it is used in NRS 205.067, the statute defining the crime of Home Invasion.
2. Whether the court abused its discretion in imposing a prison sentence of a maximum term of 96 months in prison with a minimum parole eligibility of 38 months.

**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:

Nevada Supreme Court NRAP 17(a)(1) and (b)(1) since it is an appeal from a jury verdict on a category B felony

**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?

3 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 Apr 14, 2017

20. Date of entry of written judgment or order appealed from Apr 19, 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 15, 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)(1)(A)

### 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.

John Francis Dunham

\_\_\_\_\_  
Name of appellant

Jun 12, 2017

\_\_\_\_\_  
Date

Kristine L. Brown

\_\_\_\_\_  
Name of counsel of record

*Kristine L. Brown*

\_\_\_\_\_  
Signature of counsel of record

### CERTIFICATE OF SERVICE

I certify that on the 14<sup>th</sup> 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):

Dated this 14<sup>th</sup> day of June, 20 17.

*Kristine L. Brown*  
\_\_\_\_\_  
Signature