

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Brent A. Coles  
Petitioner  
and  
Connie S. Bisbee, Chairman;  
The Nevada Board of Parole Commissioners;  
The Nevada Department of Corrections;  
and  
The State of Nevada  
(Real Party in Interest)  
Respondents

No. 74707

DOCKETING STATEMENT  
CIVIL APPEALS

FILED

FEB 15 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

GENERAL INFORMATION

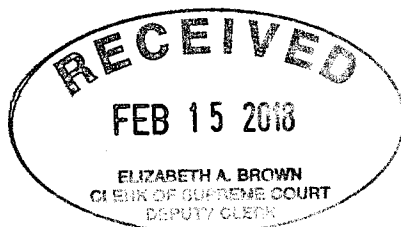
Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, 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, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.



18-06369

1. Judicial District First Department 2  
County Carson City Judge James E. Wilson Jr.  
District Ct. Case No. 17 OC 000 51 1B

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

Attorney In Forma Pauperis Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address Warm Springs Correctional Center  
P.O. Box 7007  
Carson City, Nevada 89701

Client(s) Brent A. Coles #49132

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.

**3. Attorney(s) representing respondents(s):**

Attorney Adam Paul Laxalt Telephone (775) 684-4605

Firm Nevada Attorney General's Office

Address 555 Wright Way  
Carson City, Nevada 89711

Client(s) Connie Bisbee, The Nevada Board of Parole Commissioners, The Nevada Department of Corrections,  
The State of Nevada

Attorney Kathleen Brady Telephone (775) 684-4605

Firm Nevada Attorney General's Office

Address 555 Wright Way  
Carson City, Nevada 89711

Client(s) Connie Bisbee, The Nevada Board of Parole Commissioners, The Nevada Department of Corrections,  
The State of Nevada

(List additional counsel on separate sheet if necessary)

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

- |                                                             |                                                                         |
|-------------------------------------------------------------|-------------------------------------------------------------------------|
| <input type="checkbox"/> Judgment after bench trial         | <input checked="" type="checkbox"/> Dismissal:                          |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction                           |
| <input type="checkbox"/> Summary judgment                   | <input checked="" type="checkbox"/> Failure to state a claim            |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute                           |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify): _____                         |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:                                |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination     | <input type="checkbox"/> Other disposition (specify): _____             |

**5. Does this appeal raise issues concerning any of the following? No**

- ☐ Child Custody  
☐ Venue  
☐ Termination of parental rights

**6. 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:

*None known at this time.*

**7. 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., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

*Brent A. Codes v. Connie Bisbee, The Nevada Board of Parole Commissioners,  
The Nevada Department of Correction, The State of Nevada*

*Case NO: 17 OC 00051 1B*

*First Judicial Court of the State of Nevada in and for Carson City  
Dept. 2*

*Dismissal on November 18<sup>th</sup>, 2017.*

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

Appellant filed "Petition for Declaratory Judgment" on May 17, 2017.

Respondents filed "Motion to Dismiss" on July 24<sup>th</sup>, 2017.

Appellant filed "Opposition Resp. to Motion to Dismiss" on August 24, 2017.

Respondents filed "Reply in Support of Motion to Dismiss" on Sept. 8, 2017.

Order Granting "Motion to Dismiss" by District Court Judge Wilson filed on Nov. 20, 2017.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

- 1) NRS 213.1214 is in contradiction to NAC 213.514 as to when an "Assessment" is to be done.
- 2) Did Appellant present a Justiciable Controversy to the District Court upon which to support having Declaratory Relief granted?
- 3) Does the "Static-99R" meet the statutory Requirement to be a "Currently Accepted Standard of Assessment" for Determining an inmates risk to re-offend in a Sexual Manner?
- 4) Because Appellant was convicted under the 1984 standards (in a plea deal), under different requirements and standards of Assessment, was the change to now use the "Static-99R" including the automatic provisions to deny parole to anyone labeled as a "High-Risk", a violation of Ex Post Facto prohibitions?
- 5) Because the "Static-99R" is not performed as a Face-to-Face interview and the Inmate is never made a part of or included in any "Assessment" performed, is Due process violated by not advising the Inmate of his "Score" or "Label" until it is already being used in the parole hearing proceedings?

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

**11. 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

☐ Yes

☐ No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☒ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

**13. 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: *Appellant believes this case should be retained by the Supreme Court under NRAP 17 (a) (10) & (11). This case deals with the application of statutes, also a decision must be made to clarify the contradiction in the language between NRS 213.1214 & NAC 213.514(3). The decision would effect a large segment of the incarcerated population in Nevada. Any inconsistency in the statutes must be heard by the Supreme Court as it raises a principal issue of statewide importance (11).*

**14. Trial.** If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? N/A

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

*N/A*

## TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from November 20, 2017

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

17. Date written notice of entry of judgment or order was served November 20, 2017

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail

December 13<sup>th</sup> 1 2017 District Court  
19. Date notice of appeal filed December 21<sup>st</sup> 2017 Supreme Court

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)(1)

### SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- |                                                   |                                                 |
|---------------------------------------------------|-------------------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205             |
| <input type="checkbox"/> NRAP 3A(b)(2)            | <input type="checkbox"/> NRS 233B.150           |
| <input type="checkbox"/> NRAP 3A(b)(3)            | <input checked="" type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____    |                                                 |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

NRAP 3A(b)(1) states "An appeal may be taken (1) From a final judgment in an Action or proceeding commenced in the court in which the judgment is rendered". The district court's "Order Granting the Motion to Dismiss" is what is being ~~appealed~~ appealed.

NRS 703.376 Any party to the action, within 60 days after the service of a copy of the order or judgment of the district court, may appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution as in other civil cases.



**22. List all parties involved in the action or consolidated actions in the district court:**

**(a) Parties:**

Brent A. Coles - Appellant

Respondents

Connie Bisbee

The Nevada Board of Parole Commissioners

The Nevada Department of Corrections

The State of Nevada

The Nevada Attorney General's Office

**(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:**

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

**(a) Specify the claims remaining pending below:**

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

*No documents attached per order filed January 29, 2018.*

## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Brent A. Coles  
Name of appellant

Brent A. Coles  
Name of counsel of record

February 7, 2018  
Date

Brent A. Coles  
Signature of counsel of record

Nevada, Carson  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 7 day of February, 2018, 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): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Mrs. Kathleen Brady  
Deputy Attorney General  
Office of the Attorney General  
555 Wright Way  
Carson City NV. 89711

Dated this 7 day of February, 2018

Brent A. Coles  
Signature