

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

JAMES CURTIS IVEY, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75062

Electronically Filed
Mar 01 2018 02:59 p.m.

DOCKETING Elizabeth A. Brown
CRIMINAL APPEALS Clerk of Supreme Court

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

GENERAL INFORMATION

1. Judicial District Eighth County Clark
Judge Stefany Miley District Ct Case No. C-14-300979-3

2. If the defendant was given a sentence,

(a) what is the sentence?

(1) 60 to 180 months with a consecutive 60 to 180 months; (2) 13 to 60 months, consecutive.

(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 filing this docketing statement:

Attorney Julian Gregory, Esq. Telephone 702-625-1183

Firm: Law Office of Julian Gregory, LLC.

Address: 228 S. 4th St. #300
Las Vegas, NV 89101

Client(s) James Ivey

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 Steven B. Wolfson, Esq. Telephone (702) 455-4741

Firm: Clark County District Attorney

Address: 200 Lewis Ave.
Las Vegas, NV 89155

Client(s) The State of Nevada

Attorney Adam Laxalt, Esq. Telephone (775) 684-1265

Firm: Nevada State Attorney General

Address: 100 N. Carson St.
Carson City, NV 89701

Client(s) The State of Nevada

(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 type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Grant of motion to suppress evidence |
| <input checked="" 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:

☐ 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 ☐

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):

None known

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):

None known

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

Pursuant to a negotiation wherein the State of Nevada retained the right to argue, Mr. Ivey pled guilty to one count of robbery with use of a deadly weapon and one count of conspiracy to commit robbery. The district court sentenced Mr. Ivey as above. Following a grant of a writ of habeas corpus after arguing denial of an appeal under Lozada, the district court clerk entered an appeal on Mr. Ivey's behalf.

13. **Issues on appeal.** State concisely the principal issue(s) in this appeal:

The district court's sentence is excessive and in violation of the Eighth Amendment prohibition on cruel and unusual punishment.

The district court's sentencing scheme denied Mr. Ivey of his right to individualized sentencing.

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. **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 ☒

16. **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?

_____ days

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

Yes ☐ No ☒

TIMELINESS OF NOTICE OF APPEAL

18. Date district court announced decision, sentence or order appealed from 5/6/2015

19. Date of entry of written judgment or order appeal from 5/12/2015

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

20. 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 ☐.

21. 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 _____

22. Date notice of appeal filed 2/6/2018

23. 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(c)

SUBSTANTIVE APPEALABILITY

24. 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 34.575(2) _____
NRS 177.015(3) <u>x</u> _____	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.

James Ivey

Name of appellant

3/1/2018

Date

Julian Gregory

Name of counsel of record

/s/ Julian Gregory

Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 1 day of March, 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):

Dated this 1 day of March, 2018.

/s/ Julian Gregory

Signature