

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

STATE OF NEVADA, BOARD OF PAROLE
COMMISSIONERS,

Appellants,

vs.

STATE OF NEVADA,

Respondent

No. 75799

DOCKETING STATEMENT
CRIMINAL APPEALS

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

Electronically Filed
May 31 2018 11:39 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

Docket 75799 Document 2018-20719

1. Judicial District 2nd Judicial County Washoe County

Judge Hon. Connie J. Steinheimer District Ct. Case No. C78-1052

2. If the defendant was given a sentence,

(a) what is the sentence?

15 years for Attempted First-Degree Murder. Life with the possibility of parole for First-Degree Murder.

(b) has the sentence been stayed pending appeal?

N/A

(c) was defendant admitted to bail pending appeal?

N/A

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

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

Attorney Kathleen Brady Telephone 775-684-4605

Firm Nevada Attorney General's Office

Address: 555 Wright Way
Carson City, NV 89711

Client(s) State of Nevada, Board of Parole Commissioners

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.

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):

Mr. Thompson has also filed an appeal in case number 75737.

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):

N/A

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

On September 11, 2017, the Nevada Board of Parole Commissioners (Parole Board) filed a Petition for Modification of sentence for Marlin Thompson (Defendant) pursuant to NRS 176.033. The Washoe County District Attorney (District Attorney) opposed the Petition and the District Court agreed, concluding that the statute in effect at the time of the commission of the crime bars Defendant from modification of his 1979 conviction.

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

The sole issue on appeal is whether life sentences imposed before Nevada's sentencing statutes were modified in 1995 to provide for a maximum and minimum terms of imprisonment may be modified pursuant to NRS 176.033(2).

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:

This case is presumptively retained by the Nevada Supreme Court because it is not a matter that is within the original jurisdiction of the Court of Appeals pursuant to NRAP 17 (b).

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?

_____ 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 March 23, 2018

20. Date of entry of written judgment or order appealed from March 26, 2018

(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 April 30, 2018

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

NRS 177.015

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) _____	Other (specify) <u>NRS 177.015</u>
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.

Board of Parole Commissioners

Name of appellant

May 31, 2018

Date

Kathleen Brady

Name of counsel of record



Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the May 31 day of 20 18, 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):

Terrance McCarthy, Deputy District Attorney
P.O. Box 11130
Reno, NV 89520

Marlin Thompson
194 Wye Street
Yerington, NV 89447

Dated this 31st day of May, 20 18.



Signature