

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 JANET SOLANDER,) CASE NO. 76228

3 Appellant,)

4 vs.)

5 THE STATE OF NEVADA,)

6 Respondent.)

DOCKETING STATEMENT

CRIMINAL APPEALS

 (Including pretrial and post-conviction
 habeas corpus and petitions for post-
 conviction relief)

Electronically Filed
Jul 18 2018 04:39 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

7 **GENERAL INFORMATION**

8 **1. Judicial District** Eighth **County** Clark

9 **Judge** Valerie Adair **District Court Case No.** C-14-299737-3

10 **2. If the defendant was given a sentence,**

11 **a. What is the sentence?** Appellant was found guilty following a jury
12 trial of forty-six (46) total counts, including Counts 1, 2, 14, 24, and 25: Child
13 Abuse, Neglect or Endangerment With Substantial Bodily Harm; Counts 3, 4, 5, 6,
14 9, 10, 11, and 12, 15, 16, 17, 18, 20, 21, 22, 26, 27, 28, 29, 40, 41, 42, 43, 44, 45:
15 Child Abuse, Neglect or Endangerment; Counts 7, 8, 19, 30, 31, 32, 33, 34, 35, 36,
16 and 37: Sexual Assault With a Minor Under Fourteen Years of Age; Counts 13, 23,
17 and 46: Assault With Use of a Deadly Weapon; and Counts 38 and 39: Battery
18 With Intent to Commit Sexual Assault.
19

20 Appellant was sentenced to the Nevada Department of Corrections to:

COUNT 1 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with
a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS; COUNT 2 - a
MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM
Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT
1; COUNT 3 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a
MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with
COUNT 2; COUNT 4 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a
MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with
COUNT 3; ; COUNT 5 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a
MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with
COUNT 4; COUNT 6 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a
MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with
COUNT 5; COUNT 7 LIFE with the eligibility for parole after serving THIRTY-
FIVE (35) YEARS, CONCURRENT with COUNT 6; COUNT 8 LIFE with the
eligibility for parole after serving THIRTY-FIVE (35) YEARS, CONCURRENT
with COUNT 7; COUNT 9 a MAXIMUM of FORTY-EIGHT (48) MONTHS with
a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT
with COUNT 8; COUNT 10 a MAXIMUM of FORTY-EIGHT (48) MONTHS
with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS,
CONCURRENT with COUNT 9; COUNT 11 a MAXIMUM of FORTY-EIGHT

(48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 10; COUNT 12 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 11; COUNT 13 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 12; COUNT 14 a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONSECUTIVE to COUNT 13; COUNT 15 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 14; COUNT 16 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 15; COUNT 17 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 16; COUNT 18 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 17; COUNT 19 - LIFE with the eligibility for parole after serving THIRTY-FIVE (35) YEARS, CONCURRENT with COUNT 18; and COUNT 20 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 19;

COUNT 21 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a
MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with
COUNT 20; COUNT 22 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with
a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT
with COUNT 21; ; COUNT 23 - a MAXIMUM of FORTY-EIGHT (48)
MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS,
CONCURRENT with COUNT 22; COUNT 24 a MAXIMUM of ONE
HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of
THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 23; COUNT 25 a
MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM
Parole Eligibility of THIRTY-SIX (36) MONTHS, CONSECUTIVE to COUNT
24; COUNT 26 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a
MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with
COUNT 25; COUNT 27 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a
MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with
COUNT 26; COUNT 28 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a
MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with
COUNT 27; COUNT 29 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a
MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with
COUNT 28; COUNT 30 - LIFE with the eligibility for parole after serving

1 THIRTY-FIVE (35) YEARS, CONCURRENT with COUNT 29; COUNT 31 -
2 LIFE with the eligibility for parole after serving THIRTY-FIVE (35) YEARS,
3 CONCURRENT with COUNT 30; COUNT 32 - LIFE with the eligibility for
4 parole after serving THIRTY-FIVE (35) YEARS, CONCURRENT with COUNT
5 31; COUNT 33 - LIFE with the eligibility for parole after serving THIRTY-FIVE
6 (35) YEARS, CONCURRENT with COUNT 32; COUNT 34 - LIFE with the
7 eligibility for parole after serving THIRTY-FIVE (35) YEARS, CONCURRENT
8 with COUNT 33; COUNT 35 - LIFE with the eligibility for parole after serving
9 THIRTY-FIVE (35) YEARS, CONCURRENT with COUNT 34; COUNT 36 -
10 LIFE with the eligibility for parole after serving THIRTY-FIVE (35) YEARS,
11 CONCURRENT with COUNT 35; COUNT 37 - LIFE with the eligibility for
12 parole after serving THIRTY-FIVE (35) YEARS, CONCURRENT with COUNT
13 36; COUNT 38 - LIFE with the eligibility for parole after serving SEVENTY-
14 TWO (72) MONTHS, CONCURRENT with COUNT 37; COUNT 39 - LIFE with
15 the eligibility for parole after serving SEVENTY-TWO (72) MONTHS,
16 CONCURRENT with COUNT 38; COUNT 40 a MAXIMUM of FORTY-EIGHT
17 (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS,
18 CONCURRENT with COUNT 39; COUNT 41 a MAXIMUM of FORTY-EIGHT
19 (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS,
20 CONCURRENT with COUNT 40; COUNT 42 a MAXIMUM of FORTY-EIGHT

(48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 41; COUNT 43 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 42; COUNT 44 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 43; COUNT 45 a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 44; and COUNT 46 a MAXIMUM of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNT 45; with THREE HUNDRED SIX (306) DAYS credit for time served.

The total aggregate sentence Appellate received was LIFE with a minimum parole eligibility of THIRTY FIVE (35) YEARS. She is also subject to a special sentence of Lifetime Supervision to commence upon any release from imprisonment and was ordered to register as a sex offender in accordance with NRS 179D.460 within FORTY-EIGHT (48) HOURS after any release from custody.

- 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. Attorneys filing this docketing statement:

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5. Is appellate counsel appointed ☒ or retained ☐ ?

If this is a joint statement by multiple defendants, 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. N/A.

6. Attorney(s) representing respondent(s):

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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"/> Motion for new trial | <input type="checkbox"/> Other disposition (specify) |

1 children's histories had not been disclosed to the Solanders he girls wet the beds,
2 wet and soiled themselves, and were aggressive and acted out. Unequipped and ill-
3 prepared, the Solanders engaged in increasingly severe methods of discipline,
4 including corporal punishment. The source of the scars attributed to the Solander's
5 discipline forms was contested at trial.

6 Appellant sought medical attention for all of the adopted girls to rule out any
7 medical reason for their behaviors. All diseases were ruled out, but not before
8 Appellant published a book critical of the foster care system. It was after the
9 publication of Appellant's book that the investigation into child abuse and sexual
10 assault began. The Solanders also fostered other children in the same home and
11 were scrutinized by the Department of Family Services regularly. DFS was in the
12 home, observed some of the charged conduct, and gave tacit government approval
13 of the conduct, so the Solanders had no reason to believe their discipline methods
14 were unlawful.

15 There was significant testimony about other bad acts that related to Janet's
16 care of the other foster children in the home. There was never any physical abuse
17 alleged and Appellant was never charged criminally for that conduct. It was just
18 uncommon parenting practices, such as pre-tearing 3 to 4 squares of toilet paper,
19 having the kids ask to go to the bathroom, monitoring what they ate, feeding them
20

1 separately from the other kids, etc. This additional testimony was admitted after a
2 bad acts hearing and ultimately prejudiced the jury by confusing the issues.

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

4 To be determined upon a thorough review of the transcripts herein, but
5 generally sufficiency of the evidence, propriety of a first-time prosecution for
6 Sexual Assault charging insertion of a catheter, validity of the sentence imposed
7 that prohibited any judicial discretion, and the impropriety of the admission of
8 untimely bad acts evidence against Appellant.

9 **14. Constitutional Issues.** If the State is not a party and if this appeal challenges
10 the constitutionality of a statute or municipal ordinance, have you notified the
11 clerk of this court and the attorney general in accordance with NRAP 44 and
12 NRS 30.130?

11 N/A ☒ Yes ☐ No ☐

12 If not, explain:

13 **15. Assignment to the Court of Appeals or retention in the Supreme Court.**
14 Briefly set forth whether the matter is presumptively retained by the
15 Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite
16 the subparagraph(s) of the Rule under which the matter falls. If appellant
17 believes that the Supreme Court should retain the case despite its
18 presumptive assignment to the Court of Appeals, identify the specific
19 issue(s) or circumstance(s) that warrant retaining the case, and include an
20 explanation of their importance, or significant: Does this appeal present a
substantial legal issue of first-impression in this jurisdiction or one affecting
an important public interest?

18 This case is presumptively retained by the Nevada Supreme Court because it
19 is a direct appeal of multiple Life sentences, convictions for multiple Category A
20 and B felonies, and raises a question of first impression under Nevada law as it

1 relates to the prosecution for insertion of a catheter for a believed legitimate
2 medical purpose as a Sexual Assault. This case involved the first prosecution of its
3 kind under this factual scenario.

4 **16. Issues of first-impression or of public interest.** Does this appeal present a
5 substantial legal issue of first-impression in this jurisdiction or one affecting
an important public interest?

6 First-Impression: Yes ☒ No ☐

7 Public Interest: Yes ☒ No ☐

8 Appellant specifically reserves the right to raise any matters of first-
9 impression or public interest in her Opening Brief in the event that they arise upon
10 a more thorough review of the argument transcript in this matter. At a minimum,
11 this appeal involves an issue of public interest on the issue of the first impression
12 of the government prosecuting the insertion of a catheter into a child for a believed
13 legitimate medical purpose as a Sexual Assault of a Minor Under Fourteen. The
14 public has an interest in the fairness of this type of original prosecution.

15 **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?

16 Twenty-one (21) days.

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

18 Yes ☒ No ☐

19 **TIMELINESS OF NOTICE OF APPEAL**

20 **19.** Date of district court announced decision, sentence or order appealed from:
June 5, 2018.

20. Date of entry of written judgment or order appeal from: June 22, 2018.

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

21. If this appeal is from an order granting or denying a petition for writ of habeas corpus, indicate the date written notice of entry of judgment or order was served by the district court: N/A.

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: N/A.

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 _____

23. Date notice of appeal filed: June 21, 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: 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 34.575 (2) ☐

NRS 177.015(3) ☒

Other (specify) _____

NRS 177.055 ☐

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DATED this 18th day of July, 2018.

/s/: Caitlyn McAmis
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/s/: Caitlyn McAmis
An Employee of The Law Offices of
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