

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

KEITH BARLOW
APPELLANT
v
THE STATE OF NEVADA
RESPONDENT

No. 77055

**DOCKETING STATEMENT
CRIMINAL APPEALS**

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

Electronically Filed
Nov 15 2018 04:33 p.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

1. Judicial District Eighth County Clark

Judge Herndon District Ct. Case No. C-13-290219-1

2. If the defendant was given a sentence,

(a) what is the sentence?

Ct 1: 72-180 mo; Ct 2: 72-180 mo (concurrent to Ct 1); Ct 3: Death, consecutive 8-20 years for deadly weapon, Ct 3 (consecutive to Ct 1); Ct 4: Death, consecutive 8-20 yrs for deadly weapon (consecutive to Ct 3); Ct 5: 28-72 mo (concurrent Ct 4); Ct 6-dismissed; Ct 7-dismissed. 2033 days credit time served

(b) has the sentence been stayed pending appeal?

Yes

(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 JoNell Thomas Telephone 702-455-6265

Firm Clark County Special Public Defender

Address: 330 S 3rd Street #800, Las Vegas NV 89101

Client(s) Appellant Barlow

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 Wolfson Telephone 702-671-2500

Firm Clark County District Attorney

Address: 200 Lewis Ave., 3rd Floor, Las Vegas NV 89101

Client(s) Respondent

Attorney Adam Paul Laxalt Telephone 775-684-1100

Firm Nevada Attorney General

Address: 100 N, Carson Street, 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 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"/> 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:

- | | |
|--|---|
| <input checked="" type="checkbox"/> death sentence | <input type="checkbox"/> juvenile offender |
| <input type="checkbox"/> life sentence | <input type="checkbox"/> 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):

70812, Pro Per Notice of Appeal from Order denying Pre-trial Writ of Habeas Corpus, Order Dismissing Appeal filed September 30, 2016

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

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

Barlow charged with Invasion of the Home while in Possession of a Deadly Weapon; Burglary While in Possession of a Firearm; 2 counts of Murder with use of a Deadly Weapon; Assault with a Deadly Weapon; Possession of a Firearm by Ex-Felon, and Unlawful Possession of an Electronic Stun Device. The State filed a Notice of Intent to Seek Death Penalty. After a jury trial, Barlow was found guilty of the first 5 counts; and counts 6 and 7 were dismissed. The jury sentenced Barlow to death on Counts 3 and 4 (murder with use of a deadly weapon). This appeal follows

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

1. Whether the district court abused its discretion by refusing to dismiss a potential juror for cause based upon his reluctance to consider mitigating evidence.
2. Whether the State violated Batson v. Kentucky.
3. Whether the district court abused its discretion by admitting prior bad act evidence.
4. Whether the district court erred in instructing the jury in the culpability and penalty phases of the trial.
5. Whether the district court abused its discretion by admitting expert testimony without a proper foundation.
6. Whether the prosecutor committed misconduct.
7. Whether additional judicial errors warrant reversal of the judgment and sentences of death.

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 is a death penalty case which is presumptively retained by the Supreme Court pursuant to NRAP 17(a)(1).

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?

9 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 Sep 26, 2018

20. Date of entry of written judgment or order appealed from Sep 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 Sep 26, 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 34.560(2) _____
NRS 177.015(3) _____	Other (specify) _____
NRS 177.055 x _____	

VERIFICATION

I certify that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief.

Keith Barlow

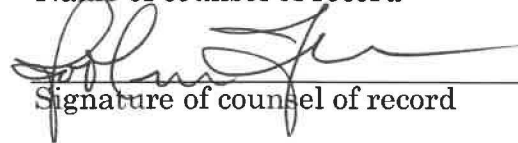
Name of appellant

Nov 15, 2018

Date

JoNell Thomas

Name of counsel of record



Signature of counsel of record

CERTIFICATE OF SERVICE

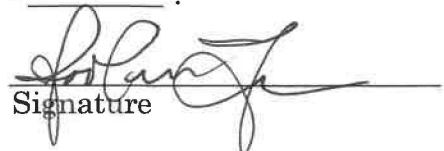
I certify that on the Nov 15 day of 20 18, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

electronic filing: Clark County District Attorney and Nevada Attorney General

Dated this 15th day of November, 20 18.



Signature