

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

**INDICATE FULL CAPTION:**

HIGH DESERT STATE PRISON;  
OFFENDER MANAGEMENT DIVISION;  
STATE OF NEVADA,

Appellants,

vs.

LUIS RICHARD SANCHEZ,  
Respondent.

No. 77622      Electronically Filed  
Dec 27 2018 11:34 a.m.  
**DOCKETING STATEMENT**  
**CRIMINAL APPEALS**  
Elizabeth A. Brown  
Clerk of Supreme Court

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

**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.

1. Judicial District Eighth

County Clark

Judge Hon. Linda Marie Bell

District Ct. Case No. A-18-775677-W

2. If the defendant was given a sentence,

(a) what is the sentence?

n/a

(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 Ashley A. Balducci

Telephone 702-486-3086

Firm State of Nevada - Office of the Attorney General

Address: 555 E. Washington Avenue Ste. 3900  
Las Vegas, NV 89101

Client(s) Appellants, High Desert State Prison, et al.

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 Pro Se Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address: \_\_\_\_\_

Client(s) \_\_\_\_\_

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address: \_\_\_\_\_

Client(s) \_\_\_\_\_

(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 type="checkbox"/> Judgment upon guilty plea             | <input checked="" type="checkbox"/> Post-conviction habeas (NRS ch. 34)   |
| <input type="checkbox"/> Grant of pretrial motion to dismiss   | <input checked="" 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 type="checkbox"/> death sentence | <input type="checkbox"/> juvenile offender |
| <input type="checkbox"/> life sentence  | pretrial proceedings                       |
|   | <input type="checkbox"/>                   |

**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):

Norman Smith v. Isidro Baca, Warden, Supreme Court No. 71984

Brian Williams, et al. v. Preston Jakes, Supreme Court No. 77128

The above-referenced cases are similar to the instant matter in that they involve convictions based on a course of conduct continuing after the amendments to NRS 209.4465.

**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):

Sanchez v. High Desert State Prison, A-18-775677-W, Eighth Judicial District Court

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

Sanchez is serving an aggregate sentence comprised of two convictions for Attempt Lewdness with a Child Under the Age of 14, based on a continuing course of conduct committed on or between May 8, 2006 and January 31, 2013, against his two minor step-daughters. Sanchez filed pro se a Petition for Writ of Habeas Corpus challenging the computation of his time pursuant to NRS 34.720(2). Upon the order of the district court, Appellant filed a response. Appellant argued, the issue pertinent to this appeal, that this Court's unpublished decision in Smith v. Baca, 71984, 408 P.3d 548, 2017 WL 6542450 (Nev. December 14, 2017) precludes application of good time credits against his minimum sentence pursuant to NRS 209.4465(8)(b) and (d) because Sanchez continued his course of conduct after the amendments to NRS 209.4465. The district court partially granted Sanchez's request for good time credits against his minimum sentence pursuant to this Court's decision in Williams v. State Dep't of Corr., 402 P.3d 1260 (Nev. 2017), but denied his other challenges to his computation of time.

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

Whether the district court erred in partially granting a petition for writ of habeas corpus for an inmate's convictions based on a continuing course of conduct pursuant to Williams v. State Dep't of Corr., 402 P.3d 1260 (Nev. 2017) that would not otherwise be entitled to good time off the minimum term pursuant to NRS 209.4465(8)(b) and (d)?

**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:

Although this case may be assigned to the Court of Appeals (NRAP 17(b)(4)), this Court should retain the case because it involves an issue which the Court has never resolved in a published opinion and which will likely arise in future cases, i.e., the application of good time credits against a minimum sentence for an offense based on a course of conduct continuing after the amendments to NRS 209.4465 that preclude good time credits against the minimum sentence.

**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 10/9/2018

20. Date of entry of written judgment or order appealed from 11/26/2018

(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 12/5/2018

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

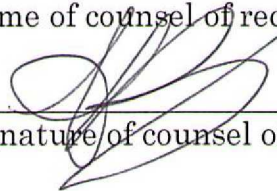
25. Specify statute, rule or other authority that grants this court jurisdiction to review from:

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) Appeal from grant of writ _____
NRS 177.015(3) _____	Other (specify) NRAP 3A(b)(1) _____
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.

Brian Williams, et al.  
\_\_\_\_\_  
Name of appellant  
  
12/27/2018  
\_\_\_\_\_  
Date

Ashley A. Balducci  
\_\_\_\_\_  
Name of counsel of record  
  
  
\_\_\_\_\_  
Signature of counsel of record

### CERTIFICATE OF SERVICE

I certify that on the 27<sup>th</sup> day of December 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):

Luis Richard Sanchez, #1108190  
c/o High Desert State Prison  
P.O. Box 650, Indian Springs, Nevada 89070-0650

Dated this 27<sup>th</sup> day of December, 20 18.

  
\_\_\_\_\_  
Signature