

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

INDICATE FULL CAPTION:

TYLER CHASE NIED  
Appellant,  
v.  
STATE OF NEVADA,  
Respondent.

No. 78147

**DOCKETING STATEMENT  
CRIMINAL APPEALS**

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

Electronically Filed  
Mar 04 2019 04:02 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 Second County Washoe

Judge Breslow District Ct. Case No. CR18-1142

2. If the defendant was given a sentence,

(a) what is the sentence?

Minimum of Twenty-Four (24) months to a maximum of Sixty (60) months, with Five (5) days credit for ~~time served~~ and by payment of restitution of Four Hundred Sixty-Three Thousand, Eight Hundred Twenty-Five Dollars and Fifty-Nine Cents (\$463,825.59) and fine of Two Thousand Dollars (\$2,000). Sentence was suspended on Probation of Fixed term of Five (5) years with special conditions as outlined in the Order Admitting Defendant to Probation.

(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 filling this docketing statement:

Attorney Thomas E. Vilorio Telephone 775-284-8888

Firm Viloria, Oliphant, Oster & Aman L.L.P.

Address: 327 California Ave.  
Reno, NV 89509

Client(s) Appellant, Tyler Chase Nied

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 \_\_\_\_\_ Telephone 775-337-5750

Firm Washoe County District Attorney's Office, Appellate Division

Address: 1 South Sierra Street, 7th Floor  
Reno, NV 89501

Client(s) The State of Nevada

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 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:**      N/A

- |   |   |
|---|---|
| <input 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      No Opinion

**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 to the undersigned's knowledge.

**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 to the undersigned's knowledge.

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

Defendant entered a guilty plea to Reckless Driving Resulting in Death or Substantial Bodily Harm to Another Person. The parties were free to argue for an appropriate sentence. The Defendant also agreed to make full restitution in the matter, as determined by the Court. The Presentence Investigation Report dated 12/12/18 and filed in the District Court 12/19/18 requested restitution in the amount of \$544,219.05. On 1/15/19 the Defendant filed Notice of Objection to Restitution. At Sentencing on 1/16/19, the victim's mother testified to the amount of restitution due and Exhibit 1 was admitted in support thereof.

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

1. Did the trial court rely on reliable and accurate evidence in setting the restitution amounts?
2. Did the trial court set restitution in an amount based upon information supported by palpable or highly suspect evidence?
3. Did the trial court abuse its discretion in setting the restitution amount and failing to take into account the actual amount of medical bills billed to the victim, by failing to consider the amount paid by insurance and by failing to consider the actual out of pocket expenses to the victim for medical bills?
4. Did the trial court abuse its discretion in failing to take into account the amount of medical bills paid by or written down by insurance in setting the amount of restitution?

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:

The case is presumptively pushed down to the Court of Appeals pursuant to NRAP 17(b)(1). However, the issues fall within the scope of NRAP 17(a)(12), and therefore the appeal should be retained by the Nevada Supreme Court.

**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?

1 days (Testimony of one witness relating to restitution and Exhibit 1 at Sentencing Hearing)

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

Yes  No Leave to the Court's discretion.

**TIMELINESS OF NOTICE OF APPEAL**

19. Date district court announced decision, sentence or order appealed from January 16, 2019

20. Date of entry of written judgment or order appealed from January 17, 2019

(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  Not applicable

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 February 14, 2019

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)(1)(A)

**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) <u>X</u> _____	Other (specify) <u>NRS 177.025</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.

Tyler Chase Nied  
Name of appellant

Thomas E. Vioria  
Name of counsel of record

3/4/19  
Date

[Signature]  
Signature of counsel of record

**CERTIFICATE OF SERVICE**

I certify that on the 5th March day of 20 19, 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):

Washoe County District Attorney's Office  
Appellate Division  
1 South Sierra Street, 7th Floor  
Reno, NV 89501

Dated this 4th day of March, 20 19.

[Signature]  
Signature