

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

**INDICATE FULL CAPTION:**

Tyrone David James Sr.,  
Petitioner/Appellant

v.

Brian Williams, et. at.,  
Respondents/Appellees.

No. 80907

Electronically Filed  
Apr 13 2020 04:06 p.m.

**DOCKETING STATEMENT**  
**CRIMINAL APPEALS**  
Alison 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 Ronald J. Israel District Ct. Case No. A-19-797521-W

2. If the defendant was given a sentence,

(a) what is the sentence?

Count 1 - 25 years to life

Count 3 - 25 years to life, concurrent

Count 5 - 2 years to life, concurrent

(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 C.B. Kirschner Telephone (702) 388-6577

Firm Federal Public Defender, District of Nevada

Address: 411 E. Bonneville Ave., Suite 250

Las Vegas, NV 89101

Client(s) Tyrone David James Sr.

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 James Sweetin Telephone 702-455-4761

Firm Clark County District Attorney

Address: 500 S. Grand Central Pkwy.  
Ste. 5 Las Vegas, Nv 89155

Client(s) 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 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 type="checkbox"/> grant <input checked="" 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 checked="" 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):

James v. State, Nevada Supreme Court Case No. 57178

James v. State, Nevada Supreme Court Case No. 71935

James v. State, Nevada Supreme Court Case No. 71935-COA

**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):

James v. State, Eighth Judicial District Court Case No. 10C265506

James v. Williams, Eighth Judicial District Court Case No. A-19-797521-W

James v. Williams, United States District Court Case No. 2:18-cv-0900-KJD-GWF

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

This is an appeal from the denial of a state post-conviction petition for writ of habeas corpus.

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

Whether the district court erred in denying the post-conviction petition for writ of habeas corpus as procedurally barred where new evidence of Mr. James' actual innocence is good cause and prejudice to overcome the procedural default.

Whether trial counsel was ineffective for not having James' DNA tested.

Whether James' right to due process was violated because new evidence demonstrates he is actually innocent of the crimes for which he was convicted.

Whether James' right to due process was violated where the State failed to disclose exculpatory, material evidence that another man's DNA was found on the victim.

Whether James' right to due process was violated due to prosecutorial misconduct regarding the exculpatory DNA evidence.

Whether James' right to confrontation was violated because of the State's suppression of exculpatory evidence.

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 not presumptively assigned to the Court of Appeals because it concerns a conviction for a category A felony (sexual assault of a minor). See NRAP 17(b)(2)(A).

**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?

  3   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 2/25/2020

20. Date of entry of written judgment or order appealed from 2/26/2020

(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 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 3/24/2020

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), NRS 34.575

### 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) <u>X</u> _____
NRS 177.015(2) _____	NRS 34.560(2) _____
NRS 177.015(3) _____	Other (specify) _____
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.**

Tyrone David James Sr.  
\_\_\_\_\_  
Name of appellant

C.B. Kirschner  
\_\_\_\_\_  
Name of counsel of record

April 13, 2020  
\_\_\_\_\_  
Date

/s/ C.B. Kirschner  
\_\_\_\_\_  
Signature of counsel of record

### CERTIFICATE OF SERVICE

I certify that on the Apr. 13 day of 20 20 , 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):

James Sweetin  
Clark County DA's Office  
500 S. Grand Central Pkwy Las Vegas, NV 89155

Geordan Goebel  
Attorney General's Office  
100 N. Carson, Carson City, NV 89701

Dated this 13th day of April , 20 20 .

Adam Dunn  
\_\_\_\_\_  
Signature