

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

**INDICATE FULL CAPTION:**

THE STATE OF NEVADA,  
Appellant,  
vs.  
JOHN JOSEPH SEKA,  
Respondent.

No. 80925 Electronically Filed  
May 26 2020 11:01 a.m.  
**DOCKETING STATEMENT**  
**CRIMINAL APPEALS**  
TAYLOR 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 Kathleen Delaney District Ct. Case No. 99C159915

2. If the defendant was given a sentence,

(a) what is the sentence?

Life Without the Possibility of Parole.

(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 ALEXANDER CHEN Telephone (702) 671-2750

Firm Clark County District Attorney's Office

Address: Regional Justice Center

200 Lewis Avenue, Post Office Box 552212 Las Vegas, Nevada 89155

Client(s) The State of Nevada

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 PAOLA ARMENI, ESQ. Telephone (702) 697-7509

Firm Clark Hill, LLP.

Address: 3800 Howard Hughes Pkwy., Ste. 500  
Las Vegas, Nevada 89169

Client(s) John Joseph Seka

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 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):

Seka v. State     No. 37907

Seka v. State     No. 37937

Seka v. State     No. 44690

Seka v. State     No. 45096

**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):

99C159915

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

Seka filed a motion for New Trial on 11/19/19 stating new evidence.

The State filed its response on 1/30/20 enlightening the court that the new evidence had already been presented and weighted by the jury during trial.

Seka filed his Reply on 3/4/20.

On 3/24/20, the court granted Seka's New Trial motion and filed it's order on 3/25/20.

The State appealed on 3/27/20 which was docketed in the Nevada Supreme Court on 4/6/20.

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

The District Court abused its discretion by vacating the conviction based upon new DNA evidence it claimed was favorable to the defense.

**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 matter should be presumptively retained by the Supreme Court because it involves a judgment of conviction for a Category A Felony.

**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

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 3/24/20

20. Date of entry of written judgment or order appealed from 3/25/20

(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

3.25.20

(a) Was service by delivery ☐ or by mail ☐ Electronic filing service ☒

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) X \_\_\_\_\_ Date filed Nov 19, 2019

New trial (other grounds) \_\_\_\_\_ Date filed \_\_\_\_\_

(b) Date of entry of written order resolving motion \_\_\_\_\_

23. Date notice of appeal filed Mar 27, 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)

### SUBSTANTIVE APPEALABILITY

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

NRS 177.015(1)(b) _____	X	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 _____		

### VERIFICATION

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

The State of Nevada  
\_\_\_\_\_  
Name of appellant

Alexander Chen  
\_\_\_\_\_  
Name of counsel of record

May 26, 2020  
\_\_\_\_\_  
Date

/s/ Alexander Chen  
\_\_\_\_\_  
Signature of counsel of record

### CERTIFICATE OF SERVICE

I certify that on the 26th 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):

X - Through the Nevada Supreme Court electronic filing service in accordance with the Master Service List as follows: AARON D. FORD, NV AG; PAOLA ARMENI, ESQ., Counsel for Respondent; ALEXANDER CHEN, Chief Deputy District Attorney.

Dated this 26th day of May , 2020 .

/s/ E. Davis  
\_\_\_\_\_  
Signature