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Oct 25 2019 02:45 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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

MAZEN ALOTAIBI,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. 79752

A-18-785145-W  
DEPT. XXIII

**APPELLANT'S DOCKETING  
STATEMENT IN A CRIMINAL APPEAL**

**GENERAL INFORMATION**

1. This is an appeal from a Supplemental Post-Conviction Petition for Writ of Habeas Corpus filed by the Defendant in a criminal case by the Eighth Judicial District Court in and for the County of Clark, State of Nevada, the Honorable, Stefany Miley, Department Number 23. The District Court Case Number is C-18-785145-W.

2. On January 28, 2015, Defendant was adjudged guilty and sentenced to the Nevada Department of Corrections as follows:

A. Defendant is presently serving sentences of imprisonment with respect to Counts 3 and 5 (Sexual Assault of a Minor Under 14 Years of Age) of the Second Amended Information filed in the above-entitled matter to which this Petition is addressed. The length of sentence imposed on Petitioner was a term of life imprisonment with parole eligibility only after a mandatory, minimum term of thirty-five (35) years of imprisonment have been served as to each such count (to be served concurrently).

Defendant is also presently serving sentences of imprisonment with respect to

1 convictions of other offenses also charged in the Second Amended Information filed in the  
2 above-entitled matter, as follows: Count 1 (Burglary)– a maximum of forty-eight (48) months of  
3 imprisonment with a minimum parole eligibility of twelve (12) months; Count 2 (Kidnapping) –  
4 a maximum of fifteen (15) years of imprisonment with parole eligibility after five (5) years of  
5 imprisonment have been served; Count 7 (Lewdness with a Child Under 14 Years) – life  
6 imprisonment with parole eligibility after ten (10) years of imprisonment have been served;  
7 Count 8 (Lewdness with a Child Under 14 Years) – life imprisonment with parole eligibility  
8 after ten (10) years of imprisonment have been served, all such sentences to be served  
9 concurrently with one another and with the sentences as to Counts 3 and 5 herein challenged.

10 On February 5, 2015, the Judgment of Conviction in this matter was filed by the district  
11 court. The Nevada Supreme Court affirmed his conviction on February 28, 2017. Defendant was  
12 successful in having the Supreme Court of Nevada consider his case with an opinion being filed  
13 on November 9, 2017. The Supreme Court of Nevada affirmed the Judgment of Conviction.  
14 Defendant filed a Petition for Certiorari on February 7, 2018 that was denied by the United  
15 States Supreme Court on April 16, 2018. On November 28, 2019, Defendant filed a Petition for  
16 Writ of Habeas Corpus. The State filed a Return on December 31, 2018. Defendant filed a Reply  
17 on January 14, 2019. On September 6, 2019, the Judge entered an Order on Petitioner's Petition  
18 for Writ of Habeas Corpus, affirming in part, declaring Petitioner's counsel was ineffective.  
19 However, the Judge denied in part, reasoning that although Petitioner's counsel was ineffective,  
20 the ineffectiveness did not result in a reasonable probability that the outcome would have been  
21 different. Alotaibi appeals from the Judgment of Conviction and all rulings, decisions and orders  
22 of the district court ancillary thereto; and from the sentences imposed by the district court with  
23 respect to the counts of conviction.

24 B. The sentences imposed have not been stayed pending appeal.

25 C. The Defendant was not admitted to bail pending appeal.

26 3. Defense counsel in the district court was retained.

27 4. The attorneys filing this Docketing statement are: Dominic P. Gentile, Esq., and Gia N.  
28

1 Marina, Esq., of the law firm of Clark Hill PLLC, 3800 Howard Hughes Parkway, Fifth Floor,  
2 Las Vegas, Nevada 89169.

3 5. The above-named appellate counsel for the Defendant (*see* Answer number 9, *supra*) are  
4 retained.

5 6. To the best of the knowledge and belief of the attorneys filing this Docketing Statement,  
6 the attorneys representing Respondents Renee Baker, Warden, Lovelock Correctional Center;  
7 And James Dzurenda, Director Of The Nevada Department of Correction are: Chief Deputy  
8 District Attorney Charles W. Thoman, Esq. and Deputized Law Clerk Joshua L. Prince, Esq. of  
9 the Clark County District Attorney's Office Criminal Division, Regional Justice Center, 200  
10 Lewis Avenue, Third Floor, Las Vegas, Nevada 89155.

11 7. The following dispositions below are implicated by this appeal:

12 A. Denial of Post-Conviction Habeas Corpus (NRS Ch. 34)

13 8. This appeal does raise issues concerning, *inter alia*, pretrial proceedings and a life  
14 sentence.

15 9. The attorneys filing this Docketing Statement are not in favor of expediting the appellate  
16 process in this case.

17 10. Other than his direct appeal to the Nevada Supreme Court and his subsequent Petition  
18 for Writ of Certiorari in the United States Supreme Court, Petitioner has not filed any other  
19 petition, application or motion with respect to the Judgment of Conviction challenged herein.

20 11. There are no other pending or prior proceedings in other courts which are related to the  
21 instant appeal. This case has not previously been the subject of an appeal or writ proceedings in  
22 the Supreme Court.

23 12. Petitioner filed a Petition for Writ of Habeas Corpus on November 28, 2018 regarding  
24 ineffective assistance on counsel. The claims included that Petitioner's trial attorney unilaterally  
25 rejected the trial court's invitation to request a jury instruction on a lesser-related, uncharged  
26 offense, that Petitioner's trial attorney commenced discussion of jury instructions without the  
27 presence of the Petitioner on the condition that he would review all discussions regarding jury  
28

1 instructions with Petitioner, that Petitioner's trial attorney failed to discuss the jury instructions  
2 with Petitioner and also failed to obtain Petitioner's consent to reject the trial court's offer with  
3 respect to counts 3 and 5 of his Sexual Assault charges. The district court rules that although  
4 Petitioner's counsel was ineffective, the ineffectiveness did not result in a reasonable probability  
5 that the outcome would have been different.

6 13. This appeal presents the following issue:

7 A. Whether the district court erred in denying the Defendant's Petition for  
8 Writ of Habeas Corpus (Post-Conviction)?

9 14. All of the above-identified issues presented in this appeal (*see* Answer number 18,  
10 *supra*) implicate matters affecting important public interests.

11 15. An evidentiary hearing was not conducted with respect to the Defendant's Petition in the  
12 Supreme Court of the United States seeking a Writ of Certiorari to the Supreme Court of  
13 Nevada.

14 16. The attorneys filing this Docketing Statement would object to the submission of this  
15 appeal for disposition without oral argument.

16 **TIMELINESS OF NOTICE OF APPEAL**

17 17. The district court denied the Defendant's petition for writ of habeas corpus on  
18 September 6, 2019.

19 18. Date of entry of written judgment or order appealed from is September 9, 2019.

20 19. The order denying Defendant's petition for writ of habeas corpus was served on  
21 September 5, 2019.

22 20. The time for filing the notice of appeal was not tolled by a post judgment motion.

23 21. Notice of appeal was filed on September 30, 2019.

24 22. The time limit for filing the notice of appeal in this case is governed by NRAP  
25 4(b)(1)(A) and NRS 34.575(1).

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## VERIFICATION

Mazen Alotaibi  
Name of Appellant

Dated this 23<sup>rd</sup> day of October, 2019.

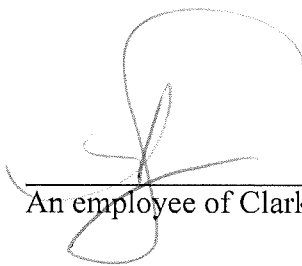
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Attorneys for Defendant/Appellant,  
Mazen Alotaibi

**CERTIFICATE OF SERVICE**

I certify that on the 25 day of October, 2019, I served a copy of this completed docketing statement upon all counsel of record, by mailing it by first class mail with sufficient postage prepaid to the following addressed to:

Clark County District Attorney's Office – Criminal Division  
Mary Kay Holthus, Chief Deputy District Attorney  
Jacqueline M. Bluth, Chief Deputy District Attorney  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, NV 89155  
Email: [mary.holthus@clarkcountyda.com](mailto:mary.holthus@clarkcountyda.com)  
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An employee of Clark Hill PLLC