

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

**INDICATE FULL CAPTION:**

LARRY D. BROWN,  
Appellant,  
vs.  
THE STATE OF NEVADA  
Respondent.

No. 81962

**DOCKETING STATEMENT  
CRIMINAL APPEALS**

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

Electronically Filed  
Dec 10 2020 03:15 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 Eighth County Clark

Judge Valerie Adair District Ct. Case No. C-17-326247-1

2. If the defendant was given a sentence,

(a) what is the sentence?

Count 1: 28-72 mo; Count 2: 72-180 mo, consecutive 72-180 mo use deadly weapon, concurrent to Count 1; and Count 3: 20 yrs to Life, consecutive 96-240 mo use deadly weapon (aggregate total 28 years, concurrent with count 2). He received a sentence of 28-72 mo for Count 4, consecutive to Count 3. The aggregate total sentence is Life with a minimum of 30 years and 4 months.

(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 Navid Afshar Telephone 702-455-6265

Firm Special Public Defender

Address: 330 South Third Street #800  
Las Vegas NV 89155

Client(s) Appellant

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 Steven Wolfson Telephone 702-671-2500

Firm Clark County District Attorney

Address: 200 Lewis Ave., 3rd Floor  
Las Vegas NV 89155

Client(s) Respondent

Attorney Aaron Ford Telephone 775-684-1100

Firm Nevada Attorney General

Address: 100 N. Carson Street  
Carson City NV 89701

Client(s) The State of Nevada

(List additional counsel on separate sheet if necessary)

**7. Nature of disposition below:**

- ☐ Judgment after bench trial
- ☒ Judgment after jury verdict
- ☒ Judgment upon guilty plea
- ☐ Grant of pretrial motion to dismiss
- ☐ Parole/probation revocation
- ☐ Motion for new trial
  - ☐ grant ☐ denial
- ☐ Motion to withdraw guilty plea
  - ☐ grant ☐ denial

- ☐ Grant of pretrial habeas
- ☐ Grant of motion to suppress evidence
- ☐ Post-conviction habeas (NRS ch. 34)
  - ☐ grant ☐ denial
- ☒ Other disposition (specify):

Jury Trial Counts 1-3; GP to Ct 4 (bifurcated)

**8. Does this appeal raise issues concerning any of the following:**

- ☐ death sentence
- ☒ life sentence
- ☐ juvenile offender
- ☐ 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):

None

**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):

State v. Carter, C326247-2, 8th Judicial District Court, co-defendant judgment of conviction filed 9/23/2020 based on guilty plea to voluntary manslaughter with use of a deadly weapon.

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

An Amended Third Superseding Indictment was filed against Brown in open Court on the first day of trial, charging him with 1 count each of Conspiracy to Commit Robbery, Robbery with use of a Deadly Weapon, and Murder with Use of a Deadly Weapon. A Fourth Amended Superseding Indictment was filed adding Count 4, Ownership or Possession of Firearm by Prohibited Person. Brown pled guilty to count 4, only, and a Guilty Plea Agreement (Alford Plea) was filed. Brown proceeded to trial on the other 3 counts; and the jury returned its verdict finding him guilty of Counts 1 through 3. Brown was sentenced to an aggregate total of Life with a minimum of 30 years and 4 months. Due to several clerical errors, a Judgment of Conviction (Plea of Guilty-Alford), Amended Judgment of Conviction, and a Second Amended Judgment of Conviction have been filed. This appeal follows.

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

- 1) Whether the District Court violated Mr. Brown's right to confront witnesses by placing numerous improper limitations on the cross examination of the State's cell phone expert and by allowing the State to use photographic evidence without supporting expert testimony.
- 2) Whether the District Court erred by allowing the cooperating co-defendant's hearsay statements to be used against Mr. Brown without calling the co-defendant to testify.
- 3) Whether the District Court erred by allowing the State to use evidence gathered in violation of Mr. Brown's Fourth Amendment rights.
- 4) Whether the State State was allowed to improperly exclude potential jurors based upon race.
- 5) Mr. Brown herein reserves the right to raise additional issues once a full review of the record is complete.

**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 should be retained by the Nevada Supreme Court under rule 17(a)(12) as it involves a conviction of Murder, which is a Category A felony, as well as addresses issues involving the Confrontation Clause, Unlawful Search and Seizure, and racial discrimination during jury selection, and is likely to involve an issue of public interest.

**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?

9 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 Sep 18, 2020

20. Date of entry of written judgment or order appealed from 9/23/20; 10/20/20; 12/2/20

(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

(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 10/19/20; 11/18/20; 12/8/20

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) _____
NRS 177.015(3) <u>x</u> _____	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.

Larry D. Brown

\_\_\_\_\_  
Name of appellant

Dec 10, 2020

\_\_\_\_\_  
Date

Navid Afshar

\_\_\_\_\_  
Name of counsel of record



\_\_\_\_\_  
Signature of counsel of record

### CERTIFICATE OF SERVICE

I certify that on the Dec 10 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):

Electronic Service to Steve Wolfson, Clark County District Attorney; and Adam Paul Laxalt, Nevada Attorney General

Dated this 10th day of December, 20 20.

  
\_\_\_\_\_  
Signature