

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

**INDICATE FULL CAPTION:**

THOMAS JASON BERNAL,  
Appellant,  
v.  
THE STATE OF NEVADA,  
Respondent.

No. 82465 Electronically Filed  
May 05 2021 10:44 a.m.

**DOCKETING STATEMENT  
CRIMINAL APPEALS**

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

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.

1. Judicial District Third County Lyon

Judge John P. Schlegelmilch District Ct. Case No. 20-CR-00099

2. If the defendant was given a sentence,

(a) what is the sentence?

Life in prison with parole eligibility after service of 25 years in prison.

(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 KARLA K. BUTKO Telephone 775-786-7118

Firm Karla K. Butko, Ltd.

Address: P. O. Box 1249  
Verdi, NV 89439

Client(s) Thomas Jason Bernal

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 RYE/ MATTHEW MERRILL Telephone 775-463-6511

Firm Lyon County District Attorney's Office

Address: 31 S. Main Street  
Yerington, NV 89447

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 checked="" type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Grant of motion to suppress evidence  |
| <input 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:**

- |   |   |
|---|---|
| <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):

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):

20-CR-00099: Trial case in Third Judicial District Court

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

Mr. Bernal was charged with three counts of sexual assault upon a child under age 16 without substantial bodily harm. Pre-trial motions were heard, argued and the rulings are the subject of the appeal. Mr. Bernal was acquitted by the jury on two of the counts but convicted on one count. The mandatory sentence of life in prison with parole eligibility after service of 25 years in prison was imposed by the Court. This appeal follows.

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

1. The Defendant's statement to police was in violation of the Fifth Amendment and Miranda. The District Court erred when it denied the motion to suppress the Defendant's statement to police.
2. The District Court admitted bad act statements allegedly made by the Defendant which were more prejudicial than probative and inadmissible. The District Court abused its discretion when it admitted these statements over defense objection.
3. The sentence in this case constituted cruel and unusual punishment under the 8th & 14th Amendments and the Nevada Constitution.

**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 under the jurisdiction of the Supreme Court of Nevada. The crime is a Category A felony and the case proceeded to jury trial. The excessive sentence of 25 mandatory years in prison with a life parole tail makes this conviction one of the most serious sentencing structures in the United States, let alone Nevada. This serious case should remain at 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?

4 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 01/25/2021

20. Date of entry of written judgment or order appealed from 02/04/2021

(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 February 11, 2021

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) XXX _____	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.

THOMAS JASON BERNAL

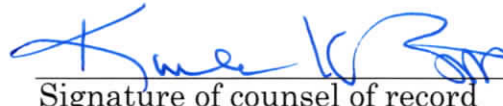
\_\_\_\_\_  
Name of appellant

May 5, 2021

\_\_\_\_\_  
Date

KARLA K. BUTKO

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



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

### CERTIFICATE OF SERVICE


I certify that on the May 5 day of 20 21, 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):

Stephen Rye/ Matthew Merrill  
Lyon County District Attorney's Office  
31 S. Main Street  
Yerington, NV 89447

Dated this 5th day of May, 2021.

  
\_\_\_\_\_  
Signature