

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

DARION MUHAMMAD-COLEMAN,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

Case No: 82915

Electronically Filed
Jun 07 2021 06:11 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

DOCKETING STATEMENT

1. Judicial district, county, judge, and district court docket number of lower court proceedings: Eighth Judicial District, County of Clark, Honorable Judge Tierra Jones, District Court Case Number A-19-806521-W.

2. Conviction(s) appealed from: The Defendant was convicted of the following at trial; Count three (3) – First Degree Murder with use of a Deadly Weapon; Count four (4) – Battery with use of a Deadly Weapon; Count Six (6) – Conspiracy to Violate Uniform Controlled Substances Act; and count seven (7), attempt to possess controlled substance.

a. Sentence for each count: In addition to the \$25 administrative assessment fee, the \$150 DNA analysis fee, \$750.00 Indigent Defense Civil Assessment Fee and \$250.00 fine, Mr. Muhammad-Coleman was sentenced as follows: As to count three (3) (first degree murder with use of a deadly weapon); to

a term of life with a minimum of two hundred and forty (240) months in the Nevada Department of Corrections (NDOC), plus a consecutive sentence of a minimum of sixty (60) months and a maximum of two hundred and forty (240) months for the deadly weapon enhancement, for a total aggregate sentence of life with the possibility of parole and probation after a minimum of three hundred (300) months has been served in the Nevada Department of Corrections (NDOC); on count four (4) (battery with use of a deadly weapon), a minimum term of forty-eight (48) months and a maximum term of one hundred twenty (120) months, concurrent to count three (3); As to count six (6) (conspiracy to violate uniform controlled substance act), a minimum term of twenty-four (24) months and a maximum term of sixty (60) months, concurrent to count three (3); as to count seven (7) (attempt to possess controlled substance), a minimum term of nineteen (19) months and a maximum term of forty-eight (48) months, concurrent to count three (3), and consecutive to case C299066, with seven hundred twenty (720) days credit for time served.

3. Was counsel in district court appointed or retained: Trial Counsel and appellate counsel was appointed, but counsel for post-conviction habeas was retained.

///

///

4. Attorney filing this docketing statement: Waleed Zaman, Esq.,
Zaman & Trippiedi, 6620 S. Tenaya Way, Suite 100, Las Vegas, NV 89113,
(702) 359-0157.

5. Is appellate counsel appointed or retained: Retained

6. Attorneys Representing Respondent: Aaron Ford, Esq., and
Alexander Chen, Esq., of the Office of the Nevada District Attorney.

200 Lewis Avenue
Las Vegas NV 89101

7. Nature of disposition: Appeal based on a district court Order denying
post-conviction writ of habeas, pursuant to *NRS 34.575*.

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

9. Expedited Appeals: Appellant is not in favor of an expedited appeals
process.

10. Pending and prior proceedings in this court: There was a prior
proceeding in this Court (NSC Case No. 82103), filed in proper person, that was
deemed not ripe and dismissed, as the district court had not yet resolved all claims
in the Petition.

11. Pending and prior proceedings in other courts: N/A.

12. Nature of action: Mr. Muhammad-Coleman was found guilty of the
aforementioned counts at trial and sentenced on March 28th, 2017. A Petition for

Writ of Habeas Corpus was then filed by present counsel on behalf of Mr. Coleman. The claims were denied at a hearing on the matter, but an evidentiary hearing was granted regarding whether trial counsel was ineffective for failing to identify and utilize a post-traumatic stress disorder expert. This claim was thereafter denied, and a Findings of Fact, Conclusion of Law and Order was then filed by the District Court on April 23, 2021, for which counsel timely filed a Notice of Appeal on May 11, 2021.

13. Issues on appeal: Appellant seeks reversal on the following grounds: Whether the District Court abused its discretion in not finding trial counsel ineffective for failing to properly cross-examine the lead detective or otherwise raise the issue of perjury or argue the same at closing; whether the District Court abused its discretion in not finding counsel ineffective for failing to obtain an expert concerning post-traumatic stress disorder; that the sentencing hearing relied on improper evidence and was therefore an illegal sentencing; whether the Court impermissibly allowed the lead detective to testify as an expert without properly being noticed as such; whether the district court abused its discretion when it failed to consider cumulative error that justified reversal; and whether the State and/or its witnesses impermissibly commented on Appellant's post-arrest silence during trial and during both closing arguments.

14. Constitutional Issues: N/A.

15. Assignment to Court of Appeals or retention in the Supreme Court:

Pursuant to *NRAP* 17, this is an appeal of a judgment of conviction from a jury trial for a category “A” felony. Thus, this matter is not assigned to the Court of Appeals and should be retained by the Nevada Supreme Court. *NRAP* 17 (b).

16. Issues of first impression or public interest: This matter involves commenting on the post-arrest silence of a defendant in rebuttal closing, which upon information and belief has not yet been resolved by this Court, although this Court did issue a decision regarding such comments in closing argument in *Woodstone v. State NSC Case No. 74238*.

17. Length of trial: 1/2 day Evidentiary hearing on Petition for Writ of Habeas Corpus.

18. Oral argument: Counsel objects to submission of this appeal for disposition without oral argument.

19. Date district court announced decision, sentence, or order appealed from: Findings of Fact, Conclusion of Law and Order filed on April 23, 2021.

20. Date of entry of written judgment or order appealed from: Notice of Entry of Findings of Fact, Conclusion of Law and Order filed on April 26, 2021.

21. If 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: Notice served on April 26, 2021.

22. If the time for filing the notice of appeal was tolled by a post-judgment motion: N/A

23. Date notice of appeal filed: May 11, 2021.

24. Rule governing the time limit for filing the notice of appeal: *NRS* 34.575(1).

25. Specify statute, rule, or other authority that grants this court jurisdiction to review from: *NRS* 34.575(1)

VERIFICATION

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

Dated this 7th day of June 2021.

Waleed Zaman

Waleed Zaman, Esq.
Nevada Bar No. 13993
Attorney for Appellant

CERTIFICATE OF SERVICE

In accordance with *NRAP* 25, I hereby certify that I filed the foregoing **DOCKETING STATEMENT** with the Nevada Supreme Court by electronic filing. I certify that the following parties or their counsel of record are registered as e-filers and that they will be served electronically by the system, in accordance with the Master Service List:

Aaron Ford, Esq.
Nevada Attorney General

Alexander Chen, Esq.
Chief Deputy District Attorney - Appellate

I further certify that on June 7th, 2021, I served a true and correct copy of the foregoing **DOCKETING STATEMENT** through personal mail, addressed in a sealed and prepaid envelope to:

Darion Muhammad-Coleman #1144228
Lovelock Correctional Center
1200 Prison Rd.
Lovelock, Nevada 89419

DATED this 7th day of June 2021.

/S/ Waleed Zaman

An Employee of Zaman & Trippiedi