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IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,

Petitioner,

vs.

RENEE BAKER, WARDEN

Lovelock Correctional Center,

Respondent.

S.Ct. No. 82060

D.C. No. C298879-1

Electronically Filed
Jul 14 2021 10:32 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**DOCKETING STATEMENT
CRIMINAL APPEALS**

GENERAL INFORMATION

1. Eighth Judicial District; Clark County, Department XI
Judge Jacqueline Bluth; District Court Case No. C298879-1
2. On September 29, 2015, Appellant was sentenced as follows:

Count 1 - Robbery with Use of a Deadly Weapon (maximum of 120 months and minimum of 36 months, plus a consecutive sentence of maximum of 120 months and minimum of 36 months for the use of a deadly weapon);
Count 2 - False Imprisonment with Use of a Deadly Weapon (maximum of 60 months and minimum of 18 months, concurrent with Count 1);
Count 3 -Grand Larceny Auto (maximum of 96 months and minimum of 24 months, consecutive to Counts I and 2);
Count 4 -Assault with a Deadly Weapon (maximum of 60 months and minimum of 18 months, concurrent with Count 3);
Count 5 -Coercion (maximum of 60 months and minimum of 18 months, concurrent with Count 4);
Count 6 - Battery Resulting in Substantial Bodily Harm Constituting Domestic Violence (maximum of 48 months and minimum of 18 months, concurrent with Count 5); and
Count 7 - Preventing or Dissuading Witness or Victim from Reporting Crime or Commencing Prosecution (maximum of 36 months and minimum of 12 months, concurrent with Count 6).

b) The Appellant's sentence has not been stayed.

- 1 c) The Appellant has not been admitted to bail pending appeal.
- 2 3. Appellant had appointed counsel represented himself in District Court on
3 his Motion Requesting Order Directing the Las Vegas Metropolitan Police
4 Department to Conduct Genetic Marker and Latent Fingerprint Analysis of
5 Evidence Impounded at Crime Scene (Post-Conviction), which is the
6 subject of this appeal.
- 7 4. Attorney filing this docketing statement:
8 Jean J. Schwartz, Esq.
9 170 S. Green Valley Parkway #300
10 Henderson, NV 89012
11 (702) 979-9941
- 12 5. Appellate counsel is appointed.
- 13 6. Respondent Attorney:
14 Chief Deputy District Attorney Alexander Chen
15 Clark County District Attorney's Office
16 200 Lewis Avenue, 9th Floor
17 Las Vegas, Nevada 89155
18 (702) 671-2750
- 19 7. Disposition Below:
20 Denial of Post-Conviction Motion.
- 21 8. N/A
- 22 9. Appellant is in favor of proceeding in an expedited manner.
- 23 10. Prior proceedings in this court:
24 82931: Perry v. State of Nevada (Direct Appeal)
- 25 11. Prior proceedings in other courts:
26 C298879-1: State of Nevada v. Perry (Criminal Trial)
27 C298879-1 : Perry v. Warden (Petition for Writ of Habeas
28 Corpus (Post-Conviction))

12. Appellant was convicted of the following crimes:
Robbery with Use of a Deadly Weapon
False Imprisonment with Use of a Deadly Weapon
Grand Larceny Auto
Assault with a Deadly Weapon
Coercion
Battery Resulting in Substantial Bodily Harm Constituting Domestic Violence
Preventing or Dissuading Witness or Victim from Reporting Crime or Commencing Prosecution

Appellant's conviction and sentence were affirmed on appeal by the Supreme Court of Nevada. That being said, this Court ruled that it was an abuse of discretion to not allow a self defense instruction. This error was deemed harmless.

Appellant filed a Petition for Writ of Habeas Corpus (Post-Conviction), which is still pending. One of the claims raised in his Petition was that his counsel was ineffective for failing to have genetic marker and latent print analysis conducted on the blood on the weapon. This was ineffective because had such analysis been conducted would have shown that it was Appellant's blood on the knife. Additionally, analysis would have shown that it was the alleged victim's fingerprints on the handle, not Appellant's. This would have supported his self-defense claim and changed the outcome of trial and or the ruling on the direct appeal.

Appellant filed a Motion requesting such analysis because without doing so, his claim in his Petition will be a bare and naked allegation. There is no way for Appellant to establish his claim unless he can demonstrate how a better investigation could have changed the outcome of trial.

This Court denied Appellant's Motion.

13. Issues Appellant is raising in this appeal:

a) The District Court erred in denying Appellant's Motion Requesting Order Directing the Las Vegas Metropolitan Police Department to Conduct Genetic Marker and Latent Fingerprint Analysis of Evidence Impounded at Crime Scene (Post-Conviction), which is the subject of this appeal.

14. N/A

15. Pursuant to NRAP 17(b)(3), this case is presumptively routed to the Court of Appeals Supreme Court of Nevada because this is a post conviction appeal

1 that involves a challenge to a judgment of conviction or sentence for offenses
2 that are not category A felonies.

3 16. First Impression? No.

4 Public Interest? No.

5
6 17. The jury trial in this matter lasted eight (3) days.

7
8 18. I agree with the submission of this appeal for disposition without oral
9 argument.

10
11 **TIMELINESS OF NOTICE OF APPEAL**

12 19. The District Court announced its decision to deny Appellant's Motion on
13 February 17, 2021.

14
15 20. The District Court filed its Order Denying Defendant's Motion on April
16 16, 2021.

17 21. Notice of Entry of Decision and Order had not yet been filed.

18
19 22. N/A.

20
21 23. The Notice of Appeal was filed on May 14, 2021.

22
23 24. The statute governing the time limit for filing the Notice of Appeal is NRAP
24 4(b).

25 25. The statute which grants this Court jurisdiction to review the instant appeal is
26 NRS 177.015(3).

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VERIFICATION

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

Genaro Perry Jean J. Schwartzer

July 14, 2021 /s/ Jean Schwartzer

Dated this 14th day of July, 2021.

Respectfully submitted,

/s/ Jean J. Schwartzer
JEAN J. SCHWARTZER, ESQ
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CERTIFICATE OF SERVICE

I certify that on July 14th, 2021, an electronic copy of the foregoing
DOCKETING STATEMENT was sent via the master transmission list with the
Nevada Supreme Court to the following:

AARON FORD, ESQ.
Nevada Attorney General

ALEXANDER CHEN, ESQ.
Chief Deputy District Attorney

/s/ Jean J. Schwartz
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