

IN THE SUPREME COURT OF THE STATE OF NEVADA

TED MICHAEL DONKO,)
)
Appellant,)
)
vs.)
)
THE STATE OF NEVADA,)
)
Respondent.)
_____)

Electronically Filed
Jun 15 2021 09:29 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
Case No. 81075
Case No. 83037

MOTION FOR CONSOLIDATION OF APPEALS

COMES NOW Appellant, TED MICHAEL DONKO, by and through Chief Deputy Public Defender AUDREY M. CONWAY, and moves this Honorable Court to consolidate his two pending full-brief appeals, Supreme Court Case Numbers: 81075 and 83037.

This Motion is based upon the following Points and Authorities, the attached Declaration of counsel, the attached copy of the District Court minutes, and all papers and pleadings on file herein.

DATED this 14th day of June, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By /s/ Audrey M. Conway
AUDREY M. CONWAY, #5611
Chief Deputy Public Defender

POINTS AND AUTHORITIES

I. FACTS

TED MICHAEL DONKO brings this motion to consolidate the recently-filed appeal of the Amended Judgment of Conviction filed on May 25, 2021, with the current appeal of his original Judgment of Conviction from jury trial, filed on April 24, 2020. On June 1, 2021, Mr. Donko filed a Notice of Appeal from the Amended Judgment of Conviction filed May 25, 2021. The Supreme Court Case Number for the appeal regarding Appellant's appeal from the Amended Judgment of Conviction filed on May 25, 2021, is 83037, and the Supreme Court Case Number for the current appeal of his judgment of conviction after jury trial is 81075.

These notices are intertwined, and in the interests of judicial economy and in fairness to the defendant, Donko asks this Court to consolidate the two appeals.

II. LAW

NRAP Rule 3(b) governs the joinder or consolidation of cases on appeal. The provisions of this rule have been applied to consolidate appeals from two district court judgments and orders pertaining to a single defendant. *Meegan v. State*, 114 Nev. 1150, 968 P.2d 292 (1998) (consolidation of an appeal from a conviction for first-degree murder

pursuant to a jury verdict and an appeal from a district court order denying defendant's motion for a new trial in the same case). The sole appellate issue in Case No. 83037 arises from a post-trial ruling regarding a change in Donko's aggregate sentencing structure in the same district court case; this issue has already been substantively briefed and addressed by both parties in the Opening and Answering Briefs filed in Supreme Court Case No. 81075. The Amended Judgment of Conviction was filed some six months after the District Court's minute order reflecting the post-trial ruling and during the pendency of the appeal in Case No. 81075.

III. CONCLUSION

In view of the above, the Defendant asks this court to consolidate the two appeals.

Respectfully submitted,

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By /s/ Audrey M. Conway
AUDREY M. CONWAY, #5611
Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 14th day of June, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
ALEXANDER CHEN

AUDREY M. CONWAY

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

TED MICHAEL DONKO
c/o High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070

BY /s/ Carrie M. Connolly
Employee, Clark County Public
Defender's Office