

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

**INDICATE FULL CAPTION:**

Hamza Zalyaul,  
Appellant,

vs.

The State of Nevada,  
Respondent.

No. 83334

Electronically Filed  
Aug 27 2021 05:57 p.m.

**DOCKETING STATEMENT**  
**CRIMINAL APPEALS**  
Alison A. Brown  
Clerk of Supreme Court

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

**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 Eighth County Clark

Judge Tara Clark-Newberry District Ct. Case No. C-21-354047-1

2. If the defendant was given a sentence,

(a) what is the sentence?

4-10 years in the Nevada Department of Corrections

(b) has the sentence been stayed pending appeal?

No

(c) was defendant admitted to bail pending appeal?

No (Defense request denied)

3. Was counsel in the district court appointed ☐ or retained ☒ ?

4. **Attorney filling this docketing statement:**

Attorney Damian Sheets Telephone (702) 988-2600

Firm Nevada Defense Group

Address: 714 S. Fourth Street

Las Vegas, Nevada 89101

Client(s) Hamza Zalyaul

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 Steve Wolfson Telephone (702) 671-2500

Firm Clark County District Attorney's Office

Address: 200 Lewis Avenue  
Las Vegas, NV 89101

Client(s) State of Nevada

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address: \_\_\_\_\_

Client(s) \_\_\_\_\_

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

- ☐ grant ☐ denial
- ☒ Motion to withdraw guilty plea
  - ☐ grant ☒ denial

Motion to Dismiss for Lack of Jurisdiction

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

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

N/A

**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):

C-21-354047-1 (District Court)

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

As Defendant was a juvenile at the time of the offense (14 years old), the negotiations were crafted in a manner to replicate what the negotiations would have been had Defendant been timely charged in juvenile court:

Defendant pled guilty to one count Attempt Sexual Assault. The State would have no opposition to probation; if honorable discharged, Defendant can withdraw his plea and enter a plea to Open or Gross Lewdness (Gross Misdemeanor); the State would have no objection to sealing the instant case after the requisite time period.

At rendition of sentence, the Court did not follow the negotiations and sentenced Defendant to 4-10 years in the Nevada Department of Corrections.

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

1. Whether the District Court had proper jurisdiction over the case, as the offense was committed while Defendant was a juvenile;
2. Whether a prosecutorial delay of over seven years from the initial report to law enforcement, resulting in Defendant being an adult when ultimately charged, warrants dismissal;
3. Whether Defendant is entitled to withdraw his plea.

**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 matter may be assigned to the Nevada Court of Appeals pursuant to NRAP 17(b)(1) as an appeal from a judgment of conviction based on a plea of guilty, guilty but mentally ill, or nolo contendere (Alford)

**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?

0 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 07/01/2021

20. Date of entry of written judgment or order appealed from 07/07/2021

(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 08/04/2021

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) <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.**

Hamza Zalyaul  
\_\_\_\_\_  
Name of appellant

Damian Sheets  
\_\_\_\_\_  
Name of counsel of record

08/27/2021  
\_\_\_\_\_  
Date

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

### CERTIFICATE OF SERVICE

I certify that on the 27 August 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):

Steve Wolfson  
Clark County District Attorney's Office  
200 Lewis Avenue  
Las Vegas, NV 89101

Dated this 21 day of August , 2021 .

  
\_\_\_\_\_  
Signature