

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL RAY LOPEZ

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Sep 30 2021 11:31 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 83394

**DOCKETING STATEMENT
CRIMINAL APPEALS**

GENERAL INFORMATION

1. **Judicial District:** Second **County:** Washoe
Judge: Kathleen Sigurdson **District Ct Case No.:** CR20-2086

2. **If the defendant was given a sentence,**

(a) What is the sentence?

Count I: The court, upon guilty plea, determined Mr. Lopez was guilty of Robbery and sentenced Mr. Lopez to 48-1120 months.

Count II: The court, upon guilty plea, determined Mr. Jackson was guilty of Assault with a Deadly Weapon sentenced Mr. Lopez to 24-60 months, concurrent with count I

(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?

Appointed.

4. Attorney filing this docketing statement:

Attorney: Ian Silverberg
Firm: Washoe County Alternate Public Defender
Address: 350 S. Center Street, 6th Floor
Reno, Nevada 89501
Telephone: 775-328-3972
Client: MICHAEL RAY LOPEZ

5. Is appellate counsel appointed or retained?

Appointed.

6. Attorney(s) representing respondent(s):

Attorney: Jennifer Noble
Firm: Washoe County District Attorney
Address: One South Sierra Street, 4th Floor
Reno, Nevada 89501
Telephone: 775-328-3200
Client: The State of Nevada

7. Nature of disposition below:

- | | |
|--|--|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Grant of pretrial habeas |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Grant of motion to suppress evidence |
| X 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"/> Motion to withdraw guilty plea |
| <input type="checkbox"/> grant <input type="checkbox"/> denial | <input type="checkbox"/> grant <input type="checkbox"/> denial |

8. Does this appeal raise issues concerning any of the following: No

- ☐ death sentence
- ☐ life sentence

- ☐ juvenile offender
- ☐ 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):

N/A

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

Appellant MICHAEL RAY LOPEZ (hereinafter "Mr. LOPEZ") was charged in this case with Robbery with the Use of a Deadly Weapon, Attempted Robbery with the Use of a Deadly Weapon and Assault with the Use of a Deadly Weapon.

Pursuant to negotiations, Mr. LOPEZ agreed to plead guilty to one count of Robbery and one count of Assault with a Deadly Weapon, with both sides free to argue for an appropriate sentence.

Appellant was sentenced to 48-120 on count I and 24-60 months on count II, concurrent.

13. Issues on appeal. State concisely the principal issue(s) in this appeal:

The district court abused its discretion in denying the Appellant a suspended sentence after releasing him on his own recognizance to in-patient treatment which he was completing successfully.

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 ☐

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:

Presumptively retained by the Court of Appeals NRAP 17(b)(1).

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?

N/A

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
August 16, 2021

20. Date of entry of written judgment or order appeal from 08/16/2021.

(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:

N/A

22. If the time for filing the notice of appeal was tolled by a post judgment motion.

N/A

(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 08/18/2021

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 34.575(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.

MICHAELL RAY LOPEZ
Name of appellant

Ian Silverberg
Name of counsel of record

September 30, 2021
Date

/s/ Ian Silverberg
Signature of counsel of record

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Alternate Public Defender's Office and that on this date I served a copy of the **DOCKETING STATEMENT** to the following:

MICHAEL RAY LOPEZ, #1247839
NNCC
P.O. BOX 7000
CARSON CITY, NV 89702
Via U.S. Mail

CHRIS HICKS
WASHOE COUNTY DISTRICT ATTORNEY
Attn: Appellate Department
Via Electronic Mail

DATED this 30th day of September, 2021.

/s/Randi Jensen
Randi Jensen