

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

**INDICATE FULL CAPTION:**

JOAN KATHRYN WENGER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 84003

Electronically Filed  
Feb 28 2022 03:36 p.m.

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

(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 Ninth Judicial Dist. County Douglas

Judge Thomas W. Gregory District Ct. Case No. 2021-CR-00114

2. If the defendant was given a sentence,

(a) what is the sentence?

A term of 10 years to life in the Nevada Department of Corrections.

(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 ☐ ?

4. Attorney filling this docketing statement:

Attorney Sally deSoto, Esq. Telephone 775-684-1080

Firm Nevada State Public Defender

Address: 511 E. Robinson Street, Carson City, NV 89701

Client(s) Joan Kathery Wenger

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 Mark Jackson, D.A. Telephone 775-782-9803

Firm Douglas County District Attorney

Address: 1038 Buckeye Road, Minden, NV 89423

Client(s) The State of Nevada

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

Firm \_\_\_\_\_

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

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

 (List additional counsel on separate sheet if necessary)

**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  |
| <input checked="" type="checkbox"/> 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"/> grant <input type="checkbox"/> denial |                                                                |
| <input type="checkbox"/> Motion to withdraw guilty plea        |                                                                |
| <input type="checkbox"/> grant <input type="checkbox"/> denial |                                                                |

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

- |                                                   |                                               |
|---------------------------------------------------|-----------------------------------------------|
| <input type="checkbox"/> death sentence           | <input type="checkbox"/> juvenile offender    |
| <input checked="" type="checkbox"/> life sentence | <input type="checkbox"/> 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):

The only proceeding in this Court is the present case, Docket No. 84003.

**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):

The only prior case in other courts was the Ninth Judicial District Court case no. 2021-CR-00114. There are no pending cases.

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

Appellant entered a guilty plea to Vehicular Homicide, a violation of NRS 484C.130(1) and NRS 484C.440(1). The agreement was for a recommended term of ten to twenty-five years. The District Court sentenced Appellant to ten years to life.

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

1. The district attorney breached the plea agreement by implicitly arguing for the higher sentence.

**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 case is presumptively assigned to the Court of Appeals pursuant to NRAP 17(b)(1), however, this case should remain before the Nevada Supreme Court because it involves an issue of statewide importance. NRAP 17(a)(12).

**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 11/29/2021

20. Date of entry of written judgment or order appealed from 11/29/2021

(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 12/20/2021

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) X _____  | 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.

JOAN KATHRYN WENGER

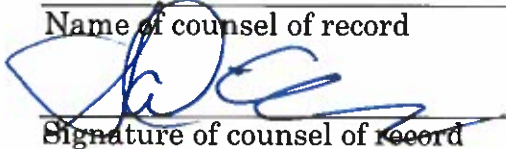
\_\_\_\_\_  
Name of appellant

February 28, 2022

\_\_\_\_\_  
Date

SALLY DESOTO, ESQ.

\_\_\_\_\_  
Name of counsel of record

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

### CERTIFICATE OF SERVICE

I certify that on the 2/28 day of 20 22, 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):

X By e-filing notice list

Dated this 28th day of February, 20 22.

  
\_\_\_\_\_  
Signature