

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Alec Dave,

Appellant,

vs.

The State of Nevada,

No. 84165

Electronically Filed
Feb 23 2022 10:49 a.m.

DOCKETING STATEMENT
CRIMINAL APPEALS
FITZGERALD, Brown
@ 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 Sixth County Humboldt

Judge Michael Montero District Ct. Case No. CR 21-7272

2. If the defendant was given a sentence,

(a) what is the sentence?

Four consecutive terms of ten 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 Matthew J. Stermitz Telephone 775-623-6550

Firm Humboldt County Public Defender

Address: Drawer 309, Winnemucca, Nevada 89446

Client(s) Alec Dave

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 Michael Macdonald Telephone 775-623-6363

Firm Humboldt County District Attorney

Address: Drawer 909, Winnemucca, Nevada 89446

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:

- 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 denial
- Motion to withdraw guilty plea
 - grant denial
- Grant of pretrial habeas
- Grant of motion to suppress evidence
- Post-conviction habeas (NRS ch. 34)
 - grant denial
- Other disposition (specify):

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

- 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):

None

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):

None

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

Alec Dave was charged with multiple counts of sexual assault on a child under the age of 16 years. Alec Dave plead guilty to four counts of lewdness with a minor. The district court sentenced Alec Dave to four consecutive terms of 10 years to life in the Nevada Department of Corrections.

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

The district court failed to take into consideration the individual circumstances of Alec Dave before imposing a sentence.

The sentence was arbitrary and capricious.

The sentence violated the eighth amendent's cruel and unusual punishment clause.

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:

The matter is presumptively assigned to 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?

_____ 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 1/1/2022

20. Date of entry of written judgment or order appealed from 1/21/2022

(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 1/27/2022

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)(1).

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.

Alec Dave

Name of appellant

Matthew J. Stermitz

Name of counsel of record

2/23/2022

Date



Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 1/23 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):

Alec Dave, Inmate # 1252965, NNCC, Box 7000, Carson City, NV 89702

Dated this 23rd day of January , 2022 .



Signature