

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2
3
4 HECTOR HUGO RAMIREZ-DE LA TORRE,)

5 Appellant,)

6
7 Vs.)

8 THE STATE OF NEVADA,)

9 Respondent.)

Electronically Filed
Jul 13 2021 02:10 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

No: 82891

10
11
12 **MOTION FOR LEAVE TO UNTIMELY FILE DOCKETING STATEMENT**

13 Comes now Gary D. Woodbury, counsel for Appellant Hector Hugo
14 Ramirez and informs the Court as follows regarding his failure to timely file
15 Appellant's docketing statement pursuant to the Notice of Rejection of filed
16 Document filed on June 4, 2021 and the June 22, 2021 order of the Court directing
17 counsel to file a docketing statement within 7 days.
18

19
20 Counsel informs the Court that he received electronic notice from the
21 Supreme Court on June 3, 2021 that the Docketing statement of Appellant had
22 been received and filed in the Nevada Supreme Court on June 3, 2021 at 4:00 p.m.
23 A copy of the Notice of Electronic Filing is attached.
24

25
26 On June 4, 2021 court reporter Lisa Manley moved the court for an order
27 extending the time to prepare transcriptions of a number of trial documents which
28

1 was granted by an order filed on June 7th, 2021. The time was extended to July 26,
2 2021.

3
4 Until Counsel learned from the Supreme Court computer records that the
5 Court had determined that Appellant's Docketing Statement had been filed a day
6 late, counsel was under the impression that the Docketing Statement had been
7 timely filed on June 3, 2021.
8

9 NRAP 14 (b) requires the Docketing Statement to be filed within 21 days
10 after the Appeal is docketed in the Supreme Court. Pursuant to NRAP 12, the
11 appeal was docketed in the Supreme Court on May 12, 2021. In Counsel's view
12 that meant that in accordance with NRCP 6, there were 18 days remaining in May
13 and 3 days in June, 2021 for the Docketing Statement to be timely filed.
14
15

16 Counsel apologizes to the Court for his mathematical ineptitude, and informs
17 the Court that because the Court Reporter had been granted a delay in preparing
18 the trial transcripts until July 26, 2021, neither Counsel nor his staff had any reason
19 to review the Court electronic record regarding Appellant until today.
20
21

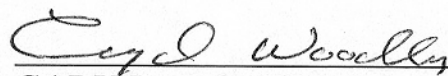
22 Submitted herewith is the Docketing Statement of Appellant. Counsel is
23 aware that sanctions may be imposed.
24

25 Appellant requests that the Docketing Statement be accepted for filing.

26 ///

27 ///

1 Respectfully submitted this 13 day of JULY 2021.

2
3 

4 GARY D. WOODBURY

5 State Bar No. 1915

6 1053 Idaho Street

7 Elko, Nevada 89801

8 (775) 738-8006
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CERTIFICATE OF SERVICE

I certify that this document was filed electronically with the Nevada Supreme Court on the 13 day of JULY 2021. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

Elko County District Attorney

Gary D. Woodbury

Nevada Attorney General

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid to the following address(es):

Hector Hugo Ramirez-De La Torre #1244731

Southern Desert Correctional Center

PO Box 208

Indian Springs, NV 89070-0208


KIMBERLY DAWSON

Subject: Notification of Electronic Filing in RAMIREZ-DE LA TORRE (HECTOR) VS. STATE, No. 82891
Date: Thursday, June 3, 2021 at 4:01:43 PM Pacific Daylight Time
From: efiling@nvcourts.nv.gov
To: kimcdawson2@aol.com

Supreme Court of Nevada
NOTICE OF ELECTRONIC FILING

Notice is given of the following activity:

Date and Time of Notice: Jun 03 2021 04:01 p.m.

Case Title: RAMIREZ-DE LA TORRE (HECTOR) VS. STATE
Docket Number: 82891
Case Category: Criminal Appeal

Document Category: Docketing Statement
Submitted by: Gary D Woodbury
Official File Stamp: Jun 03 2021 04:00 p.m.
Filing Status: Accepted and Filed

Docket Text: Filed Docketing Statement 82891 Docketing Statement

The Clerk's Office has filed this document. It is now available on the Nevada Supreme Court's E-Filing website. Click [her](#) to log in to Eflex and view the document.

Electronic service of this document is complete at the time of transmission of this notice. The time to respond to the document, if required, is computed from the date and time of this notice. Refer to NEFR 9(f) for further details.

Clerk's Office has electronically mailed notice to:

Gary Woodbury
Tyler Ingram
Aaron Ford

No notice was electronically mailed to those listed below; counsel filing the document must serve a copy of the document on the following:

This notice was automatically generated by the electronic filing system. If you have any questions, contact the Nevada

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

HECTOR HUGO RAMIREZ-DE LA TORRE,
Appellant,

Vs.

STATE OF NEVADA,
Respondent.

No. 82891

**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 Fourth County Elko

Judge Alvin R. Kacin District Ct. Case No. CR-FP-19-2456

2. If the defendant was given a sentence,

(a) what is the sentence?

Please see attached. (2 pages)

(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 Gary D. Woodbury Telephone 775-738-8006

Firm Gary D. Woodbury, Attorney at Law

Address: 1053 Idaho St.
Elko, NV 89801

Client(s) HECTOR HUGO RAMIREZ-DE LA TORRE, APPELLANT

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 Mills & Justin Barainca Telephone 775-738-3101

Firm Elko County District Attorney Office

Address: 540 Court St.
Elko, NV 89801

Client(s) _____

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 checked="" type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Grant of motion to suppress evidence |
| <input 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 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):

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:

Defendant was charged with and convicted of 4 felony counts of drug trafficking, 1 felony count of possession of a firearm by a prohibited person, 10 felony counts of mistreatment of roosters and 10 felony counts of possessing roosters for fighting.

He was convicted of all charges.

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

Defendant's appeal raises the issue of whether the District Court's denial of Defendant's Motion to Dismiss all charges against Defendant, based on Defendant's assertion that his constitutional right to due process had been and was being violated was correct.

Appellant was convicted of 4 counts of Drug Trafficking all of which are Category A felonies. Appellant's argument on appeal is that his State and Federal Constitutional right to due process of law was violated because members or aspirants working to become members of one or more Mexican Cartels informed him that he was to present no testimony, witnesses or evidence of any kind contesting his guilt of the trafficking charges. He was to provide no assistance to trial counsel in his defense and to provide no information to the Court that would or could conceivably assist in his defence.

Defendant was informed that if he violated those rules he and or members of his family would be killed. Defendant did not violate those rules.

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:

Pursuant to NRAP 17(b)(2)(A) Appellant's case, because it is principally based in his conviction of Category A felonies, is assigned to the Supreme Court for decision.

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?

12 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 Apr 14th, 2021

20. Date of entry of written judgment or order appealed from Apr 21st, 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 Apr 28th, 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
NRS 34.575

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.

Hector Hugo Ramirez-De La Torre

Gary D. Woodbury

Name of appellant

Name of counsel of record

June 2, 2021
Date

Gary D. Woodbury
Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the _____ 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):

Hector Hugo Ramirez-De La Torre #1244731
NNCC
1721 East Snyder Avenue
Carson City, NV 89701

Dated this 3rd day of June, 2021.

Kimberly Dawson
Signature

2. If the defendant was given a sentence,

(a) what is the sentence?

For Count 1: 25 years in prison, with eligibility for parole beginning when a minimum of 10 years has been served, A fine of \$100.00.

Defendant received credit for 758 days served as of April 14, 2021.

For Count 2: 25 years in prison, with eligibility for parole beginning when a minimum of 10 years has been served. A fine in the amount of \$100.00.

For Count 3: 25 years in prison, with eligibility for parole beginning when a minimum of 10 years has been served. A fine in the amount of \$100.00.

For Count 4: 25 years in prison, with eligibility for parole beginning when a minimum of 10 years has been served. A fine in the amount of \$100.00.

For Count 5: 60 months in prison with eligibility for parole in 24 months.

Counts 1, 2, 3, 4, and 5 are all to be served concurrently.

For Counts 9: 48 months in prison with eligibility for parole after 18 months.

For Count 10: 48 months in prison with eligibility for parole after 18 months.

For Count 11: 48 months in prison with eligibility for parole after 18 months.

For Count 12: 48 months in prison with eligibility for parole after 18 months.

For Count 13: 48 months in prison with eligibility for parole after 18 months.

For Count 14: 48 months in prison with eligibility for parole after 18 months.

For Count 15: 48 months in prison with eligibility for parole after 18 months.

For Count 16: 48 months in prison with eligibility for parole after 18 months.

For Count 17: 48 months in prison with eligibility for parole after 18 months.

For Count 18: 48 months in prison with eligibility for parole after 18 months.

For Count 19: 48 months in prison with eligibility for parole after 18 months.

For Count 20: 48 months in prison with eligibility for parole after 18 months.

For Count 21: 48 months in prison with eligibility for parole after 18 months.

For Count 22: 48 months in prison with eligibility for parole after 18 months.

For Count 23: 48 months in prison with eligibility for parole after 18 months.

For Count 24: 48 months in prison with eligibility for parole after 18 months.

For Count 25: 48 months in prison with eligibility for parole after 18 months.

For Count 26: 48 months in prison with eligibility for parole after 18 months.

For Count 27: 48 months in prison with eligibility for parole after 18 months.

For Count 28: 48 months in prison with eligibility for parole after 18 months.

The sentences for Counts 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 are concurrent to each other.

The sentences for Counts 10, 12, 14, 16, 18, 20, 22, 24, 25, 26 and 28 were suspended and Defendant was placed on a term of probation of 12 months.