

SUPREME COURT OF THE STATE OF NEVADA

RICHARD A. NEWSOME,)

ID# 1194269,)

Appellant,)

v.)

STATE OF NEVADA,)

Respondent.)

_____)

Electronically Filed
Sep 20 2021 01:46 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
83475

Supreme Court No:

D.C. case no.: **C-17-321043-1**

Dept.: **IX**

E-filed

DOCKETING STATEMENT - CRIMINAL APPEALS

1. Eighth Judicial District, County of Clark, Judge CRISTINA D. SILVA, District
Court Case number: C-17-321043-1.

2. If the Defendant was given a sentence,

(a.) what is the sentence?

Defendant received life in Nevada Department of Corrections with Parole
eligibility in ten (10) years plus a consecutive sentence of two hundred and forty
months (240), eligible for parole in ninety-six (96) months.

(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? RETAINED.

4. Attorney filing this docketing statement:

Attorney: Terrence M. Jackson Telephone: 702.386.0001

Firm: Law Office of Terrence M. Jackson

624 South Ninth Street

Las Vegas, Nevada 89101

Client: RICHARD ALLAN NEWSOME, JR.

5. Is appellate counsel appointed or retained? APPOINTED.

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

Attorney: Steven B. Wolfson Telephone: 702.671.2500

Firm: Clark County District Attorney

200 East Lewis Avenue

Las Vegas, Nevada 89155-2212

Client: State of Nevada

Attorney: Karen Mishler Telephone: 702.671.2676

Firm: Chief Deputy District Attorney - Criminal

200 East Lewis Avenue

Las Vegas, Nevada 89155-2212

Client: State of Nevada

7. Nature of disposition below:

Denial of Post Conviction Petition for Habeas Corpus (NRS ch. 34)

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? No.

10. Pending and prior proceedings in this court: NONE.

11. Pending and prior proceedings in other courts: 79044, 79044-COA

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

Defendant/Appellant pled guilty to Second Degree Murder on December 14, 2017. On February 8, 2018, Defendant was sentenced to a maximum of life with a minimum parole eligibility of ten (10) years with a consecutive two hundred and forty months (240) with minimum parole eligibility in ninety-six (96) months with three hundred ninety-four (394) days credit for time served. Defendant did not file a direct appeal.

On February 1, 2019, Defendant filed a Petition for Writ of Habeas Corpus ("First Petition"), Supplemental Petition for Writ of Habeas Corpus ("Supplement"), Motion for Appointment of Counsel ("Motion"), and Request for an Evidentiary

Hearing (“Request”). On May 1, 2019, the State filed a response to Defendant’s First Petition, Supplement, Motion, and Request. The Findings of Fact, Conclusions of Law were filed on June 26, 2019. On July 13, 2020, the Nevada Court of Appeals affirmed the district court’s denial of Defendant’s First Petition. *Newsome v. State*, No. 79044-COA (Order of Affirmance, July 13, 2020). Remittitur was issued on August 10, 2020.

On October 9, 2020, Defendant filed another Petition for Writ of Habeas Corpus (“Second Petition”). On November 23, 2020, the State filed its Response. On December 17, 2020, this Court denied Defendant’s Second Petition. The Findings of Fact, Conclusions of Law and Order were filed on April 5, 2021.

On March 9, 2021, Defendant filed a Motion to Correct Illegal Sentence. On March 31, 2021, Terrence M. Jackson confirmed as counsel. On April 20, 2021, the State filed its Opposition to Defendant’s Motion to Correct Illegal Sentence.

On June 2, 2021, Defendant, through counsel, filed a Supplemental Points and Authorities in Support of Writ of Habeas Corpus for Post Conviction Relief (“Third Petition”). On July 7, 2021, the State filed its Response. On July 23, 2021, Defendant filed a Reply. After a hearing on August 4, 2021, the Court entered Findings of Fact, Conclusions of Law and Order, denying Defendant’s Petition on August 20, 2021. On September 2, 2021, Defendant filed Notice of Appeal.

13. Issues on Appeal. State specifically all issues in this appeal:

1. Whether the District Court erred in not finding the simultaneous representation by defense counsel of the Defendant and the Co-Defendant was prejudicially ineffective assistance of counsel;

2. Whether defense counsel was ineffective preplea because counsel failed to perform the necessary investigation and preparation to render effective assistance of counsel under *Strickland*;

3. Whether the Plea Canvas was adequate to establish Defendant's plea was freely, voluntarily and intelligently made and not in any way influenced by his attorney's conflict of interest;

4. Whether the District Court erred in finding the Defendant's Petition should be procedurally barred;

A. Whether Defendant can demonstrate good cause and prejudice for any delay;

B. Whether applying procedural bars in this case resulted in a fundamental miscarriage of justice;

5. Whether the District Court erred in denying Defendant an evidentiary hearing to show ineffective assistance of counsel and to show his Petition should not be procedurally barred;

6. Whether the accumulation of error requires reversal of Defendant's conviction;

7. Defendant/Appellant respectfully requests the right to add additional issues to his Opening Brief if warranted by further research.

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.

[X] N/A

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:

Because Defendant pled guilty in this case, NRAP 17(b) assigns this case presumptively to the Court of Appeals. There are specific circumstances in this case that warrant the Supreme Court retaining jurisdiction. The Defendant's conviction was for a Class A felony, second degree murder. Defendant/Appellant received a life

sentence. This case has multiple, complex legal issues that are important for the Supreme Court to hear.

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?

One day hearing.

18. Oral argument. Would you object to submission of this appeal for disposition without oral argument? ☒ Yes ☐ No.

19. Date district court announced decision, sentence or order appealed from:

August 4, 2021.

20. Date of entry of written judgment or order appealed from: August 20, 2021.

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: August 24, 2021.

(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:

N/A

23. Date notice of appeal filed: September 2, 2021.

24. Specify statute or rule governing the time limit for filing notice of appeal:

NRAP 4(b)

25. Specify statute, rule or other authority that grants this court jurisdiction to review from: NRS 34.575(1).

VERIFICATION

I certify that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief.

Richard Allan Newsome, Jr.

Name of Appellant

Terrence M. Jackson, Esq.

Name of Counsel of Record

September 20, 2021

Date

//s// Terrence M. Jackson

Signature of counsel of record

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CERTIFICATE OF SERVICE

I certify that on the 20th day of September, 2021, I served a copy of this completed docketing statement upon all counsel of record:

[X] Via Electronic Service (eFlex) to the Nevada Supreme Court;

[X] and by United States first class mail with postage affixed to the Nevada

Attorney General and to the Defendant as follows:

STEVEN B. WOLFSON

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RICHARD A. NEWSOME, JR.

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AARON D. FORD, ESQUIRE

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Carson City, Nevada 89701

By: /s/ Ila C. Wills

Assistant to T. M. Jackson, Esq.