

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Eric Abasta Jr.,
Appellant,
vs.
The State of Nevada,
Respondent.

No. 83346

Electronically Filed
Aug 26 2021 10:29 a.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 Eighth County Clark

Judge Villani, M., Barker, D., Silva, C. District Ct. Case No. C-20-349045-1

2. If the defendant was given a sentence,

(a) what is the sentence?

Count 1: 240-600 mos.; Count 2: 28-72 mos. (consecutive to count 1); Count 3: 48-180 mos. (consecutive to count 1); Count 4: 28-72 mos. (consecutive to count 1); Count 5: 28-72 mos. (consecutive to count 1); Count 6: 48-180 mos. (consecutive to count 1); Count 7: 28-72 mos. (consecutive to count 1); Counts 3, 4, 5, 6 and 7 to run concurrent with Count 2. 458 days credit for time served. Aggregate total 24-65 years.

(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 Melinda E. Simpkins Telephone 702-455-6265

Firm Special Public Defender

Address: 330 South Third Street #800
Las Vegas NV 89155

Client(s) 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 Steven Wolfson Telephone 702-671-2500

Firm Clark County District Attorney

Address: 200 Lewis Ave., 3rd Floor
Las Vegas NV 89155

Client(s) Respondent

Attorney Aaron Ford Telephone 775-684-1100

Firm Nevada Attorney General

Address: 100 N. Carson Street
Carson City NV 89701

Client(s) The State of Nevada

(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 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):

Co-Defendant Mason Arney, sentencing 8/26/2021, C-20-349045-2

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

Abasta was charged with Murder with use of a deadly weapon as well as several other serious felonies. His co-defendants were charged under the same Information but not with the murder (one of his co-defendants received probation). Abasta went to a settlement conference and a settlement was reached (The Honorable David Barker). He pled guilty to Murder (first degree), 4 counts of assault with a deadly weapon and 2 counts of Robbery (The Honorable Michael Villani). He was sentenced to an aggregate total of 24 to 65 years (The Honorable Christina Silva). This appeal follows.

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

Whether the Court abused its discretion in sentencing Mr. Abasta; and any other issues to be raised after review of the record.

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 matter is presumptively assigned to the Court of Appeals pursuant to 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?

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 Jun 25, 2021

20. Date of entry of written judgment or order appealed from Jul 9, 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 Aug 6, 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) <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.

Eric Abasta Jr.

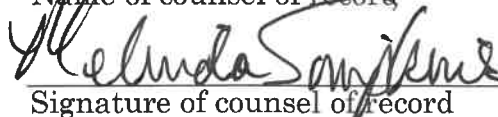
Name of appellant

Aug 26, 2021

Date

Melinda E. Simpkins

Name of counsel of record



Signature of counsel of record

CERTIFICATE OF SERVICE

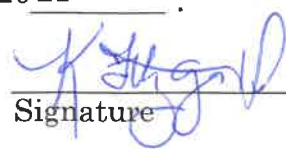
I certify that on the 8/26 day of 20 21, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Electronic Service to Steve Wolfson, Clark County District Attorney; and Adam Paul Laxalt, Nevada Attorney General

Dated this 26th day of August, 20 21.



Signature