



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

INDICATE FULL CAPTION:

DANIEL SALDANA,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 84029

**DOCKETING STATEMENT  
CRIMINAL APPEALS**

(Including pretrial and post-conviction  
habeas corpus and petitions for post-  
conviction relief)

Electronically Filed  
Feb 22 2022 09:27 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**GENERAL INFORMATION**

1. Judicial District Eighth County Clark  
Judge Mary Kay Holthus District Ct. No. C-18-334299-1
2. If the defendant was given a sentence,  
(a) what is the sentence? Probation previously granted to the Defendant is revoked, in addition to the original fees, fines and assessments. It is further ordered that the underlying sentence is imposed as follows: 36-96 months in prison with 214 days CTS. Court recommends defendant for the 184 program while incarcerated.  
(b) has the sentence been stayed pending appeal? No.  
(c) was defendant admitted to bail pending appeal? No.
3. Was counsel in district court appointed XX or retained \_\_\_\_\_?

**4. Attorney filing this docketing statement:**

Attorney William M. Waters, #9456 Telephone 455-4576  
Firm Clark County Public Defender's Office  
Address 309 S. Third St., #226  
Las Vegas, Nevada 89155  
Client Daniel Saldana

**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.**

5. Is appellate counsel appointed X or retained \_\_\_\_\_?

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

Attorney STEVEN B. WOLFSON Telephone 455-4741  
Firm Clark County District Attorney's Office  
Address 200 S. Third St.  
Las Vegas, Nevada 89155  
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 guilt plea   | <input type="checkbox"/> Post-conviction relief (NRS ch. 177)  |
| <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"/> Post-conviction habeas (NRS ch. 34)   |
| <input type="checkbox"/> Motion for new trial                  | <input type="checkbox"/> grant <input type="checkbox"/> denial |
| <input type="checkbox"/> grant <input type="checkbox"/> denial | <input type="checkbox"/> Other disposition (specify) _____     |
| <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 XX

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) N/A

11. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., habeas corpus proceedings in state or federal court, bifurcated proceedings against co-defendants): N/A

12. **Nature of action:** Briefly describe the nature of the action and the result below: Appellate counsel did not serve as trial counsel; has not completed a thorough review of the lower court proceedings; and is therefore unable to concisely state the nature of the action at the present time.

13. **Issues on appeal.** State specifically all issue(s) in this appeal: Appellate counsel did not serve as trial counsel; has not completed a thorough review of the lower court proceedings; and is therefore unable to concisely state the principal issues on appeal at the present time.

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 with NRAP 44 and NRS 30.130?

N/A \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Unknown at this time.  
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: Among the amendments is "Rule 17: Division of Cases Between the Supreme Court and the Court of Appeals." Subsection (b) of Rule 17 provides that certain cases shall "presumptively" be heard and decided by the court of appeals. NOT INCLUDED in the cases to be "presumptively" assigned to the court of appeals are appeals of convictions for persons convicted of Category A and Category B felonies. No provision of the Nevada Rules of Appellate Procedure suggests that Category A or Category B felonies should be assigned to the court of appeals for resolution. Pursuant to the Judgment of Conviction, Mr. Saldana was adjudicated guilty Burglary, which is classified as a "category B" felony. That because this case is a Category B felony, and because the provisions that "presumptively" assign certain cases to the Court of Appeals expressly exclude cases involving Category B felonies, the Appellant respectfully requests this Court retain this case for resolution.

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 XX  
Public interest: Yes \_\_\_\_\_ No XX

17. **Length of trial.** If this action proceeded to trial in the district court, how many days did the trial last?

0 days.

18. **Oral argument.** Would you object to submission of this appeal for disposition without oral argument?

Yes XX No \_\_\_\_\_

#### **TIMELINESS OF NOTICE OF APPEAL**

19. Date district court announced decision, sentence or order appealed from 12/16/21

20. Date of entry of written judgment or order appealed from 12/27/21

(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review: N/A.

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 N/A

(a) Was service by delivery or by mail \_\_\_\_\_ (specify).

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 _____	Date filed _____
(newly discovered evidence)	
New trial _____	Date filed _____
(other grounds)	

(b) Date of entry of written order resolving motion \_\_\_\_\_

23. Date notice of appeal filed 12/28/21.

24. Specify statute or rule governing the time limit for filing the notice of appeal, e.g.,  
NRAP 4(b), NRS 34.710, NRS 34.815, NRS 177.015(2), or other NRAP 4(b)

### **SUBSTANTIVE APPEALABILITY**

25. Specify statute, rule or other authority which grants this court jurisdiction to review  
the judgment or order appealed from:

NRS 177.015(1) (b) _____	NRS 34.710(3) _____
NRS 177.015(2) _____	NRS 34.710(4) _____
NRS 177.055 _____	NRS 34.815 _____
NRS 177.385 _____	NRS 177.015(3) <u>XX</u>

### **VERIFICATION**

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

Daniel Saldana  
Name of appellant

William M. Waters, #9456  
Name of counsel or record

February 22, 2022  
Date

/s/ William M. Waters  
Signature of counsel of record

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 22<sup>nd</sup> day of February, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD  
ALEXANDER CHEN

WILLIAM M. WATERS

BY /s/ Carrie M. Connolly  
Employee, Clark County Public  
Defender's Office