

FILED

JUN 05 2023

IN THE SUPREME COURT OF THE STATE OF NEVADA

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERKJOAN KATHRYN WENGER

Appellant,

vs.

State of Nevada

Respondent.

Supreme Court No. 86027District Court No. 2021-CR-00114B**APPELLANT'S INFORMAL BRIEF**

INSTRUCTIONS: If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, see NRAP 28(k), with the Nevada Supreme Court on or before the due date, see NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

HOW TO FILL OUT THIS FORM: This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

WHERE TO FILE THE BRIEF: You may submit your brief for filing in person or by mail.

To file your brief in person: Briefs may be submitted for filing Monday through Friday, 8:00 a.m. to 4:00 p.m.

Carson City: Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, 89701.

Las Vegas: Place your brief in the Clerk's Office Drop Box at the Las Vegas Courthouse for the Nevada Appellate Courts, 408 East Clark Avenue, Las Vegas, Nevada, 89101.



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23-17632

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
12/9/22	Dismissal of Petition for writ

Notice of Appeal. Give the date you filed your notice of appeal in the district court: 12/5/22

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
2021-CR-00114	vehicular homicide	judicial District court State of NV. Douglas County
84003	Supreme Court appeal	Nevada Supreme Court
2021-CR-00114B	Petition for Writ of Habeas corpus	judicial District court State of NV. Douglas County

Pro Bono Counsel. Would you be interested in having pro bono counsel assigned to represent you in this appeal?

☒ Yes ☐ No

NOTE: If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

On the evening of 2/28/20, the defendant, Joan Kathryn Wenger, was driving impaired. The defendant unintentionally struck the vehicle of Mr. Thomas Staugaard, causing his vehicle to crash. Mr. Staugaard's mother, Lausa Staugaard, a passenger in the vehicle, was ejected from the vehicle and passed away at the scene.

The exact dates in this section are vague, due to incorrect court records. In 6/21, the defendant was charged with NRS 484C.130 - Vehicular Homicide. In 7/21, the court appointed Brian Filter to represent the defendant.

On or about 8/23/21, the defendant was offered her one and only plea deal - to plead guilty to the Vehicular Homicide charge in exchange for: 1) the D.V.I. part of 484C.130 being dismissed/dropped (?) and: 2) a sentence of 10-25 yrs. instead of life with a possibility of parole after 10 yrs. had been served.

On or about 7/29/21, per instructions from her Defense counsel, (he informed her no other option existed; including trial), the defendant accepted the above offer, provided it was in writing. It was put on paper.

On or about 11/29/21, the defendant was sentenced to life in prison with the possibility of parole after 10 yrs. have been served.

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed.)

This Appellant's state court hearing, very excessive conviction, and extreme sentencing are in violation of her substantial rights, causing severe / extreme prejudice, and are a miscarriage of justice, based on the following:

I. Incompetent Counsel

Specifics - ~~■~~ Throughout the arraignment and hearing process, the defendant repeatedly asked her counsel for more information, definitions, and education regarding her charges, & possible alternate

charges that fit her crime (i.e. DUI with death, etc.). He (counselor) would only reply that she had no options and refused to discuss this. Counsel informed defendant of her 2 possible sentences: 10-25 or 10-life but would not provide any details on the differences, or how they could affect her. It was agreed that counsel would ask for the 10-25. The defendant was offered, by the prosecution, the 10-25, and the DUI being dropped. Defendant questioned this offer, and was told "take it" by her counsel. Defendant requested the offer in writing and did get it. Defendant requested a change of defense counsel and was denied this. During the sentencing hearing, defense counsel continually errored, mis-spoke (i.e. 25-life, etc.) without any correcting, stuttered, just stayed silent, failing to argue for the defendant on the prosecution's breach of Plea, the prosecution's false statements RE: "intentional act" and "the 2 sentences are essentially the same", or the double reading of a very emotional letter written by Mr. Staugaard to his deceased mother. The above facts were repeatedly stated and confirmed throughout the entire appeal/writ process by all parties, although the prosecution attempted to "downplay" his actions/words continually. So, it is very well established that the defendant was very poorly represented, by very incompetent counsel, and is finally under review. Following the sentencing, the defendant met with her counsel. She asked why he refused to argue, fight, or stand up for her.

He just shrugged, mumbled something about "none of it matters". He gathered his papers and left. The defendant now wonders if a "team-up" within the court had taken place to ensure her life sentence.

II. Prosecution Misconduct

A. Breach of Plea Agreement-Specifics - Prosecutor 1st states "we are standing by the joint recommendation of 10-25", then adds "10-25 & 10-Life are very similar, essentially the same. She's likely to spend the rest of her days in prison, and that is the state's recommendation".

B. False Statements-Specifics - Prosecutor states then repeats - "This wasn't an accident. This was a reckless and intentional act". Prosecutor stated the above - "10-25 and 10-life are very similar, essentially the same." He then, in replies during appeal, attempts to downplay the "Intentional Act" statement, but stands by his commitment to a life sentence, thereby breaching the plea as well as admitting to making false statements.

C. Double-reading of Ms. Stugaard's letter-Specifics - First read by prosecutor, then again by Ms. Stugaard (after it was stated he was too ill to read it), a very emotional event those of us in the courtroom suffered thru - This was a very obvious successful attempt for a life sentence for the defendant.

III. Conclusion

Throughout the sentencing hearing, the Prosecutor continually violated due process, promises, and the

defendant's rights (Santobello v. NY, Correale v. U.S., Gamble v. State, Sparks v. State, Van Burskirk v. State, Sullivan v. State, Anderson v. State). Comparing the 2 sentences - The 10-25 has both a front and a back, allowing opportunities for employment/restitution, rehab. & programs. The life sentence has no back, eliminating the defendant from any options. The fact that this high court has found evidence to reverse this case supports the foregoing and confirms the following: Both the defendant's counsel and the prosecution need to be held accountable. Prosecutors must be held to the highest standards. This appellant humbly requests the dismissal and new hearing for Case # 2021-CR-00114 in a court outside ~~Douglas~~ Douglas County with a new judge and new prosecutor. She requests a pro bono attorney. This appellant is humbly grateful to this honorable court for this opportunity.

DATED this 30 day of May, 2023.

Joan Kathryn Wenger
Signature of Appellant

JOAN KATHRYN WENGER
Print Name of Appellant

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

DATED this 30 day of May, 2023

Joan Kathryn Wenger
Signature of Appellant

Joan Kathryn Wenger
Print Name of Appellant

JCC 3 Prison Rd
Address

Sean, NV 89019
City/State/Zip

N/A
Telephone