

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

RODERICK STEPHEN SKINNER,
Appellant,

vs.

KYLE OLSEN, WARDEN; NNCC; and
THE STATE OF NEVADA,

Respondents.

No. 86846 & 86893 Electronically Filed
Oct 26 2023 11:49 AM
DOCKETING STATEMENT
CRIMINAL APPEALS
Elizabeth A. Brown
Clerk of Supreme Court

(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 Second County Washoe

Judge Bruce Breslow District Ct. Case No. CR14-0644

2. If the defendant was given a sentence,

(a) what is the sentence?

Life in prison with parole eligibility after service of Five years in prison

(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 Karla K. Butko Telephone 775 786 7118

Firm Karla K. Butko, Ltd.

Address: P. O. Box 1249

Verdi, NV 89439

Client(s) Roderick Stephen Skinner

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 Kevin Naughton

Telephone 776 328 3200

Firm Washoe County District Attorney's Office

Address: 1 South Sierra, Fourth Floor
Reno, NV 89501

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:

- | | |
|--|---|
| ☐ Judgment after bench trial | ☐ Grant of pretrial habeas |
| ☐ Judgment after jury verdict | ☐ Grant of motion to suppress evidence |
| ☐ Judgment upon guilty plea | ☒ Post-conviction habeas (NRS ch. 34) |
| ☐ Grant of pretrial motion to dismiss | ☐ grant ☒ denial |
| ☐ Parole/probation revocation | ☐ Other disposition (specify): |
| ☐ Motion for new trial | |
| ☐ grant ☐ denial | |
| ☐ Motion to withdraw guilty plea | |
| ☐ grant ☐ denial | |

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?

- ☐ 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):

Docket 66666: Direct appeal Roderick Stephen Skinner v. State of Nevada

Docket 79981: Post conviction appeal: Roderick Stephen Skinner v. Warden

Docket 84894: Petition for Writ of Mandamus

Docket 86839: Petition for Writ of Mandamus

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):

CR 14-0644: State of Nevada v. Roderick Stephen Skinner

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

Roderick Skinner filed a Second and Third Petition for Writ of Habeas Corpus (postconviction). The District Court ruled that Mr. Skinner did not prove good cause for the filing of a successive petition and that the petitions were untimely. There was no evidentiary hearing. Mr. Skinner argued that *Gonzales v. State*, 137 Nev. 398 (2021) created a new rule and that his Second Petition and Third Petition were timely. This appeal follows the denial of postconviction relief.

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

1. The District Court abused its discretion when it dismissed the postconviction action without holding an evidentiary hearing, in violation of the Fifth, Sixth and Fourteenth Amendments to the United States Constitution.
2. The District Court erred when it found that *Gonzales v. State*, 137 Nev. 398 (2021) did not create a new rule of law and dismissed the postconviction petitions.

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 case involves a postconviction on a Category A felony and is not presumptively assigned to the Court of Appeals under NRAP 17(B). The issue of whether *Gonzales v. State* should be applied to allow litigants to raise postconviction issues that were omitted in prior litigation as long as the petitioner files within one year of *Gonzales* could be serious and could provide a remedy to many litigants. This issue should be heard by the Nevada Supreme Court.

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?

_____ 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 06/09/2023

20. Date of entry of written judgment or order appealed from 06/12/2023

(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 06/23/2023

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) <u>xxx</u> _____
NRS 177.015(2) _____	NRS 34.560(2) _____
NRS 177.015(3) _____	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.

Roderick Stephen Skinner

Name of appellant

26 K103
10/23/2023

Date

Karla K. Butko

Name of counsel of record

Karla K Butko
Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 11/03 26 day of 20 23, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or eFlex delivery of the court
- ☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Kevin Naughton

Washoe County District Attorney's Office

1 South Sierra, Fourth Floor

Reno, NV 89501

Dated this 26 K103 day of October, 2023.

Karla K Butko
Signature