

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

STEVEN LAWRENCE DIXON,
Appellant,

vs.

WILLIAM REUBART, WARDEN &
THE STATE OF NEVADA,

Respondents.

No. 87091

Electronically Filed
Aug 30 2023 02:33 PM

**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 Sixth County Humboldt

Judge Michael Montero District Ct. Case No. CV0023141

2. If the defendant was given a sentence,

(a) what is the sentence?

~~No~~ 12-34 months in prison; consecutive to two other unrelated cases.

(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) Steven Lawrence Dixon

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 Pasquale/ Anthony Gordon Telephone 775 623-6363

Firm Humboldt County District Attorney's Office

Address: P. O. Box 909
Winnemucca, NV 89446

Client(s) The State of Nevada

Attorney Kevin Pasquale/ Anthony Gordon Telephone 775 623-6363

Firm Humboldt County District Attorney's Office

Address: P. O. Box 909
Winnemucca, NV 89446

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 type="checkbox"/> Judgment upon guilty plea | <input checked="" type="checkbox"/> Post-conviction habeas (NRS ch. 34) |
| <input type="checkbox"/> Grant of pretrial motion to dismiss | <input type="checkbox"/> grant <input checked="" 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):

Steven Lawrence Dixon v. The State of Nevada, Docket 77535 Order of Affirmance 5/6/21

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):

CR18-6963 Sixth Judicial District Court, trial file

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

Mr. Dixon's trial case went to jury trial. The jury acquitted him of a child abuse charge but convicted him of Fourth Degree Arson. Mr. Dixon appealed on the issue of Batson error regarding the Alternate Juror. The Nevada Supreme Court found Batson error but held that the error was harmless error. Mr. Dixon filed a petition for writ of habeas corpus (postconviction). Counsel was appointed and the petition was supplemented. The State did not file a response. The district court denied relief and dismissed the postconviction action without holding an evidentiary hearing. This appeal follows.

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 failed to grant postconviction relief to Mr. Dixon.
2. The district court deprived Mr. Dixon of his due process rights to access to court when it refused to hold an evidentiary hearing on the claims that were alleged.
3. Trial and appellate counsel were ineffective under the Sixth & Fourteen Amendments when:
 - a) trial counsel failed to have the jury instructed on the lesser included offense of destruction of property and on voluntary intoxication as a defense to a specific intent crime
 - b) Trial counsel failed to have the jury instructed on the proper use of bad act evidence and failed to keep bad act evidence out of the trial
 - c) Appellate counsel was ineffective when he failed to raise critical issues on appeal including destruction of evidence, insufficient evidence, and jury instruction error.
 - d) Trial counsel failed to make a Crockett objection when police did not have a chain of custody on the mirror that was the key piece of evidence on this prosecution.

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 is a first and timely postconviction litigation on a Category D felony. The direct appeal in Docket 77535 is a published opinion, 137 Nev. Adv. Op. 19, decided May 6, 2021. This case should remain at the Nevada Supreme Court as the Court is familiar with the case

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?

2 days *Sua trial / No evidentiary hearing.*

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 7/21/2023

20. Date of entry of written judgment or order appealed from 7/21/2023

(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 8/4/2023

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) XX _____
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.

Karla K. Butko
Name of appellant

8-30-23
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 8/30 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

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

Anthony Gordon
Humboldt County D.A.'s Office
P. O. Box 909
Winnemucca, NV 89445

Dated this 30 day of August, 20 23.

Karla K Butko
Signature