



In the Supreme Court of the State of Nevada

FILED

OCT 10 2002

INDICATE FULL CAPTION:

MARLO THOMAS,

No 40248

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *S. Young*
DEPUTY CLERK

Appellant(s),

vs.

STATE OF NEVADA,

Respondent(s).

DOCKETING STATEMENT

CRIMINAL APPEALS

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

GENERAL INFORMATION

1. Judicial District EIGHTH JUDICIAL DISTRICT COURT
Judge SALLY LOEHRER

County CLARK COUNTY
District Ct. Docket No. C 136862

2. If the defendant was given a sentence,
(a) what is the sentence? DEATH

(b) has the sentence been stayed pending appeal? NO
(c) was defendant admitted to bail pending appeal? NO

3. Was trial or post-conviction counsel appointed YES or retained _____?

4. Attorney filing this docketing statement:

Attorney DAVID M. SCHIECK, ESQ.
Firm LAW OFFICE OF DAVID M. SCHIECK
Address 302 EAST CARSON, STE. 600
LAS VEGAS NV 89101
Client(s) APPELLANT

Telephone (702)382-1844

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. Attorney(s) representing respondent(s):

Attorney STEWART BELL
Firm CLARK COUNTY DISTRICT ATTORNEY
Address 200 S. THIRD STREET
LAS VEGAS NV 89155
Client(s) RESPONDENT

Telephone (702)455-4711

Attorney FRANKIE SUE DEL PAPA
Firm NEVADA ATTORNEY GENERAL
Address 100 N. CARSON STREET
LAS VEGAS NV 89101
Client(s) RESPONDENT

Telephone (775)687-3538

JANETTE M. BLOOM
CLERK OF SUPREME COURT

By _____
DEPUTY CLERK

02-17538

6. Nature of disposition below:

- ☐ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☐ Judgment upon guilty plea
- ☐ Grant of pretrial motion to dismiss
- ☐ Parole/Probation revocation
- ☐ Motion for new trial
 - ☐ grant ☐ denial
- ☐ Motion to withdraw guilty plea
 - ☐ grant ☐ denial

- ☐ Grant of pretrial habeas
- ☐ Grant of motion to suppress evidence
- ☐ Post-conviction relief (NRS ch. 177)
 - ☐ grant ☐ denial
- ☒ Post-conviction habeas (NRS ch. 34)
 - ☐ grant ☒ denial
- ☐ Other disposition (specify) _____

7. Does this appeal raise issues concerning any of the following:

- ☒ death sentence
- ☐ life sentence
- ☐ juvenile offender
- ☐ pretrial proceedings

8. **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 XXX

9. **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):

DIRECT APPEAL, CASE NO. 31019, CONVICTION AND SENTENCE AFFIRMED 11-25-98, REHEARING DENIED 2-4-99

10. **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):

WRIT OF CERTIORARI TO UNITED STATES SUPREME COURT DENIED ON 10-4-99

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

THOMAS WAS CONVICTED OF 2 COUNTS OF MURDER WITH USE, 1 COUNT OF KIDNAPPING WITH USE, 1 COUNT OF ROBBERY WITH USE, AND 1 COUNT OF CONSPIRACY. HE WAS SENTENCED TO DEATH. HIS DIRECT APPEAL WAS DENIED. HIS WRIT OF CERTIORARI TO THE U.S. SUPREME COURT WAS DENIED. HIS PETITION FOR WRIT OF HABEAS CORPUS WAS DENIED AFTER AN EVIDENTIARY HEARING.

12. **No Merit Appeal.** If appellant was the defendant below, does counsel intend to file an affidavit of no merit appeal pursuant to *Anders v. California*, 386 U.S. 738 (1967) and *Sanchez v. State*, 85 Nev. 95, 450 P.2d 793 (1969)?

Yes _____ No XXX

13. Issues on appeal. State concisely the principal issue(s) in this appeal:

a. WHETHER THE DISTRICT COURT ERRED IN DENYING
THOMAS' WRIT OF HABEAS CORPUS ON MULTIPLE
INSTANCES OF INEFFECTIVE ASSISTANCE OF TRIAL AND
APPELLATE COUNSEL

14. Constitutional issues. If this appeal challenges the constitutionality of a statute, 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. 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

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

2 days (EVIDENTIARY HEARING)

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

Yes XXX No _____

TIMELINESS OF NOTICE OF APPEAL

18. Date district court announced decision, sentence or order appealed from 8-21-02

19. Date of entry of written judgment or order appeal from 9-6-02

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

20. 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 9-10-02

(a) Was service by delivery or by mail MAIL (specify).

21. If the time for filing the notice of appeal was tolled by a post-judgment motion,

N/A

(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 _____

22. Date notice of appeal filed 9-18-02

23. 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

24. 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 177.015(2) _____

NRS 177.055 _____

NRS 177.385 _____

NRS 34.710(3) _____

NRS 34.710(4) _____

NRS 34.815 _____

Other (specify) NRS 34.710

VERIFICATION

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

MARLO THOMAS

Name of appellant

October 8, 2002

Date

DAVID M. SCHECK, ESQ.

Name of counsel of record



Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the ___8th___ day of October, 2002 I served a copy of this completed docketing statement upon all counsel of record:

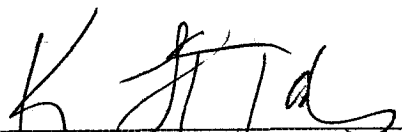
___ by personally serving it upon him/her; or

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

STEWART BELL
CLARK COUNTY DISTRICT ATTORNEY
200 S. THIRD STREET
LAS VEGAS NV 89155

FRANKIE SUE DEL PAPA
NEVADA ATTORNEY GENERAL
100 N. CARSON STREET
CARSON CITY NV 89701-4717

Dated this 8 day of October, 2002


KATHLEEN FITZGERALD, an employee of
DAVID M. SCHIECK, ESQ.