

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Barral, Dustin James,
Appellant,
vs.

The State of Nevada,
Respondent.

No. 74288

Electronically Filed
Nov 17 2017 01:37 p.m.

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.

Revised December 2015

1. Judicial District Eighth County Clark

Judge Douglas E. Smith District Ct. Case No. C-10-269095-1

2. If the defendant was given a sentence,

(a) what is the sentence?

Count 1- a maximum of two hundred and forty (240) months with a minimum parole eligibility of ninety-six (96) months; and Count 2- a maximum of seventy-two (72) months with a minimum parole eligibility of twenty-eight (28) months, consecutive to count 1.

(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 Michael V. Castillo, Esq. Telephone (702) 331-2725

Firm Las Vegas Defense Group, LLC

Address: 2970 W. Sahara Avenue, Las Vegas, NV 89102

Client(s) Dustin James Barral

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 Michelle Jobe, Esq. Telephone (702) 671-2674

Firm Clark County District Attorney's Office

Address: 200 Lewis Avenue, 3rd Floor, Las Vegas, NV 89155

Client(s) 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 guilty plea | <input type="checkbox"/> Post-conviction habeas (NRS ch. 34) |
| <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"/> 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):

Dustin James Barral
Case No. 74288
Nevada Supreme Court

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):

Dustin James Barral
Case No. C-10-269095-1
Eighth Judicial District Court
Department VIII

Dustin James Barral
Case No. 10F14936X
Las Vegas Justice Court
Department 3

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

Plea of guilty pursuant to Alford Decision to the crimes of count 1 - attempt sexual assault with a minor under fourteen years of age; count 2 - child abuse, neglect or endangerment. Defendant sentenced to Count 1- a maximum of two hundred and forty (240) months with a minimum parole eligibility of ninety-six (96) months; and Count 2- a maximum of seventy-two (72) months with a minimum parole eligibility of twenty-eight (28) months, consecutive to count 1; with one thousand and five hundred seventy-four (1,574) days credit for time serve. The Aggregate total sentence is three hundred and twelve (312) months maximum with a minimum of one hundred and twenty-four (124) months.

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

Whether the District Court abused its discretion in sentencing. The Appellant reserves the right to raise additional issues that may arise after review of the sentencing transcript.

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:

The Appellant does not contest that this appeal is appropriately assigned to the court of appeals, pursuant to NRAP 17(6)(1).

First impression: ☐ Yes ☒ No

Public interest: ☐ Yes ☒ No

4 days

☐ Yes ☒ No

TIMELINESS OF NOTICE OF APPEAL

19. Date district court announced decision, sentence or order appealed from Sept. 28, 2017

20. Date of entry of written judgment or order appealed from September 28, 2017

(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 N/A Date filed _____

New trial (newly discovered evidence) N/A Date filed _____

New trial (other grounds) N/A Date filed _____

(b) Date of entry of written order resolving motion _____

23. Date notice of appeal filed October 13, 2017

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 177.015(3)

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) _____
NRS 177.015(2) _____	NRS 34.560(2) _____
NRS 177.015(3) X _____	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.

Dustin James Barral

Name of appellant

Michael V. Casttilo

Name of counsel of record

Date

11/17/2017

Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 17th day of 20 17, 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):

Michelle Jobe, Esq.
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155

Dated this 17th day of November, 20 17.

Signature