

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

ANTHONY CLARKE,
Appellant,

vs.

STATE OF NEVADA,
Respondent.

No. 80130

Electronically Filed
Feb 10 2020 04:50 p.m.

Elizabeth A. Brown
Clerk of Supreme Court
**DOCKETING STATEMENT
CRIMINAL APPEALS**

(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 David A. Hardy District Ct. Case No. CR19-1352

2. If the defendant was given a sentence,

(a) what is the sentence?

Imprisonment in the Nevada State Prison for a minimum term of 28 months to a maximum term of 96 months.

(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 Carolyn E. Tanner Telephone 775.323.4657

Firm Tanner Law & Strategy Group, LTD.

Address: 216 E. Liberty Street
Reno, NV 89501

Client(s) Anthony Clarke

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 Jennifer Noble, Chief Appellate

Telephone 775.328.3200

Firm Washoe County District Attorney

Address: P.O. Box 11130
Reno, NV 89520

Client(s) 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

☐ 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 habeas (NRS ch. 34)

☐ grant ☐ denial

☐ Other disposition (specify):

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):

None.

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):

None.

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

Appellant entered a plea of guilty to the crime of burglary, a violation of NRS 205.060, a category B felony. Appellant sought to represent himself, and also sought a Young motion to remove the Washoe County Public Defender's Office. The district court granted his motion to represent himself, but did not grant the Young motion and required the WCPD to remain as standby counsel. Appellant filed a motion to withdraw his guilty plea based upon an allegation that his counsel had misled him regarding the evidence against him, and that he did not have the requisite intent to meet the elements of a burglary charge. The district court denied the motion to withdraw his guilty plea.

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

Whether Mr. Clarke's plea was entered in accordance with law or in violation of his constitutional rights. Whether the district court imposed a sentence that violated Mr. Clarke's constitutional rights to be free of cruel and unusual punishment under the Eighth Amendment to the U.S. Constitution.

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 matter is presumptively assigned to the Court of Appeals. NRAP 17 (b) (1).

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 11-25-19
20. Date of entry of written judgment or order appealed from 11-25-19
(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 December 4, 2019,
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 NRAP 4(b).

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) XX _____	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.

Anthony Clarke

Name of appellant

February 10, 2020

Date

Carolyn Tanner

Name of counsel of record



Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 10th Feb day of 20 20, 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):

Via e-flex

Dated this 10th day of February, 2020



Signature