

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM JACOB MARTIN,)
) APPELLANT,)
vs.)
THE STATE OF NEVADA,)
) RESPONDENT.)
_____)

SUPREME COURT NO. 87437
DC CASE NO. 19-10DC-0289
Electronically Filed
Jan 02 2024 07:13 AM
Elizabeth A. Brown
Clerk of Supreme Court

RECORD ON APPEAL
VOLUME
1

ATTORNEY FOR APPELLANT
WILLIAM JACOB MARTIN, PRO PER
NORTHERN NV CORRECTIONAL CENTER
P.O. BOX 7000
CARSON CITY, NV 89702

ATTORNEY FOR RESPONDENT
LANE MILLS, ESQ.
CHIEF DEPUTY DISTRICT ATTORNEY
165 N. ADA STREET
FALLON, NV 89406

#19-10DC-0289 - STATE OF NEVADA vs. WILLIAM JACOB MARTIN
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Feb

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19-1000-0289

CASE 18 CR 00045

FILED

IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP

2019 MAR 6 AM 11:21

COUNTY OF CHURCHILL, STATE OF NEVADA

THE SEVON COURT CLERK

BK J. Bennington

THE STATE OF NEVADA,

Plaintiff,

VS

WILLIAM JACOB MARTIN,

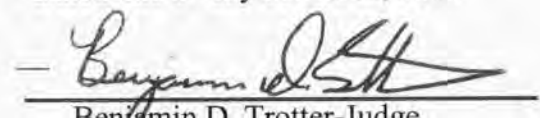
Defendant,

JUSTICE COURT PROCEEDINGS

- 8 **January 29, 2018** **Application for Warrant Filed.**
- 9 **January 29, 2018** **Criminal Complaint Filed.**
- 10 **January 29, 2018** **Warrant Issued.**
- 11 **January 30, 2018** **PC & Booking Sheet Filed.**
- 12 **February 1, 2018** **Arraignment Hearing Held.**
- 13 **February 1, 2018** **Defendant Information Sheet Filed.**
- 14 **February 1, 2018** **Order Appointing Counsel & Setting Status Hearing Filed.**
- 15 **February 9, 2018** **Notice of Status Hearing Filed.**
- 16 **February 15, 2018** **Notice of Status Hearing Filed.**
- 17 **February 15, 2018** **Order Reducing Bail Filed.**
- 18 **February 22, 2018** **Notice of Status Hearing Filed.**
- 19 **March 10, 2018** **Notice of Status Hearing Filed.**
- 20 **January 4, 2019** **Motion to Produce Defendant Filed.**
- 21 **January 4, 2019** **Order to Produce Filed.**
- 22 **January 9, 2019** **Notice of Entry of Order Filed.**
- 23 **February 28, 2019** **Status Hearing Held.**
- 24 **February 28, 2019** **Waiver of Preliminary Hearing Filed.**
- 25 **March 1, 2019** **Docket Notes/Privacy Envelope.**
- 26 **March 1, 2019** **Justice Court Proceeding/Paperwork Transf. to District Court.**

I, Benjamin D. Trotter, Judge, Justice Court New River Township, County of Churchill, State of Nevada, do hereby certify that the foregoing is a full, true and correct transcript of the above-noted documents.

Dated this 1st day of March, 2019



Benjamin D. Trotter-Judge

Justice Court New River Township Justice Court

00001

Judge: TROTTER, BENJAMIN

Case No. 18 CR 00045 3C
Ticket No.
CTN:

STATE OF NEVADA VS

By:

-vs-

MARTIN, WILLIAM JACOB DFNDT
4333 RENO HWY #32
FALLON, NV 89406
1975 S ALLEN RD
FALLON, NV 89406
Dob: 08/14/1983 Sex: M
Lic: Sid:

By: WOODMAN, CHARLES B
321 S ARLINGTON AVENUE
RENO, NV 89501

Plate#:
Make:
Year: Accident: No
Type:
Venue:
Location: NV

Bond: Set:
Type: Posted:

CHURCHILL COUNTY DISTRICT CPLNT
ATTORNEY'S OFFICE
LOOP, PAUL PTY_CPLNT

Charges:

Ct.1	205.760.1C	USE CREDIT OR DEBT CARD OR IDENTIFYING INFORMATION ON CARD OR ACCOUNT WITHOUT CONSENT	WAIVED PRELIMINARY HEARING
	Offense Dt:	12/21/2017 Cvr:	
	Arrest Dt:		
	Comments:		
Ct.2	205.760.1C	USE CREDIT OR DEBT CARD OR IDENTIFYING INFORMATION ON CARD OR ACCOUNT WITHOUT CONSENT	WAIVED PRELIMINARY HEARING
	Offense Dt:	12/21/2017 Cvr:	
	Arrest Dt:		
	Comments:		
Ct.3	205.060.2	BURGLARY, FIRST OFFENSE	WAIVED PRELIMINARY HEARING
	Offense Dt:	12/21/2017 Cvr:	
	Arrest Dt:		
	Comments:		
Ct.4	205.060.2	BURGLARY, FIRST OFFENSE	WAIVED PRELIMINARY HEARING
	Offense Dt:	12/21/2017 Cvr:	
	Arrest Dt:		
	Comments:		

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	01/29/18	APPLICATION FOR WARRANT FILED	LRIGNEY	0.00	0.00
2	01/29/18	CRIMINAL COMPLAINT FILED	LRIGNEY	0.00	0.00
3	01/29/18	WARRANT ISSUED \$30,000 BONDABLE COPY ALL TO DA	LRIGNEY	0.00	0.00
4	01/29/18	ALERT ISSUED: FAXED TO CCSO FOR ENTRY & TO BE BOOKED. CURRENTLY IN CCSO JAIL. ACTIVE WARRANT issued on: 01/29/2018 For: MARTIN, WILLIAM JACOB Bond Amt: \$30,000 BONDABLE	LRIGNEY	0.00	0.00
5	01/30/18	PC & BOOKING SHEET FILED	LRIGNEY	0.00	0.00
6	01/30/18	ALERT SERVED: ACTIVE WARRANT served on: 01/29/2018 For: MARTIN, WILLIAM JACOB	LRIGNEY	0.00	0.00
7	01/30/18	ARRAIGNMENT HEARING SCHEDULED Event: ARRAIGNMENTS (NEW RIVER) Date: 02/01/2018 Time: 8:45 am Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT Result: ARRAIGNMENT HEARING HELD	LRIGNEY	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
8	02/01/18	Result: ARRAIGNMENT HEARING HELD CD 773 Judge: RICHARDS, MICHAEL PRESENT. DDA LANE MILLS PRESENT. DEF. PRESENT FROM JAIL WITHOUT COUNSEL. READS, WRITES ENGLISH. DEF. HAS BEEN APPOINTED PD WOODMAN/SMITH ON OTHER CASES. COURT APPOINTS WOODMAN TO THIS CASE ALSO & SET CONT. STATUS 1 WEEK. SET ALL CASES FOR STATUS TOGETHER.	LRIGNEY	0.00	0.00
9	02/01/18	STATUS REVIEW HEARING SCHEDULED Event: STATUS HEARING (NEW RIVER) Date: 02/08/2018 Time: 8:45 am Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT Result: CONTINUED	LRIGNEY	0.00	0.00
10	02/01/18	DEFENDANT INFORMATION SHEET FILED	LRIGNEY	0.00	0.00
11	02/01/18	ORDER APPOINTING COUNSEL & SETTING STATUS FILED COPY DA & PD WOODMAN ALONG W/COPY OF CASE.	LRIGNEY	0.00	0.00
12	02/09/18	CONTINUED 1 WEEK PER PETER AND CHELSEA The following event: STATUS HEARING (NEW RIVER) scheduled for 02/08/2018 at 8:45 am has been resulted as follows: Result: CONTINUED Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT	SKRAMER	0.00	0.00
13	02/09/18	NOTICE OF STATUS HEARING FILED.	SKRAMER	0.00	0.00
14	02/09/18	STATUS REVIEW HEARING SCHEDULED Event: STATUS HEARING (NEW RIVER) Date: 02/15/2018 Time: 9:15 am Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT Result: CONTINUED	SKRAMER	0.00	0.00
15	02/15/18	CONTINUED 1 WEEK PER PETER The following event: STATUS HEARING (NEW RIVER) scheduled for 02/15/2018 at 9:15 am has been resulted as follows: Result: CONTINUED Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT	SKRAMER	0.00	0.00
16	02/15/18	NOTICE OF STATUS HEARING FILED.	SKRAMER	0.00	0.00
17	02/15/18	STATUS REVIEW HEARING SCHEDULED Event: STATUS HEARING (NEW RIVER) Date: 02/22/2018 Time: 8:45 am Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT	SKRAMER	0.00	0.00

Result: CONTINUED

No.	Filed	Action	Operator	Fine/Cost	Due
18	02/15/18	ORDER REDUCING BAIL FILED FAXED JAIL	LRIGNEY	0.00	0.00
19	02/22/18	CONTINUED TO MARCH 8TH PER WOODMAN AND .D.A.	SKRAMER	0.00	0.00
		The following event: STATUS HEARING (NEW RIVER) scheduled for 02/22/2018 at 8:45 am has been resulted as follows: Result: CONTINUED Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT			
20	02/22/18	NOTICE OF STATUS HEARING FILED.	SKRAMER	0.00	0.00
21	02/22/18	STATUS REVIEW HEARING SCHEDULED Event: STATUS HEARING (NEW RIVER) Date: 03/08/2018 Time: 9:15 am Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT Result: CONTINUED	SKRAMER	0.00	0.00
22	03/08/18	CONTINUED 2 WEEKS @ COUNTER W/WOODMAN & DA The following event: STATUS HEARING (NEW RIVER) scheduled for 03/08/2018 at 9:15 am has been resulted as follows: Result: CONTINUED Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT	LRIGNEY	0.00	0.00
23	03/10/18	STATUS REVIEW HEARING SCHEDULED Event: STATUS HEARING (NEW RIVER) Date: 03/22/2018 Time: 10:00 am Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT Result: VACATED PROCEEDINGS	LRIGNEY	0.00	0.00
24	03/10/18	NOTICE OF STATUS HEARING FILED COPY DA & PD WOODMAN	LRIGNEY	0.00	0.00
25	08/16/18	HEARING RESULTED: The following event: STATUS HEARING (NEW RIVER) scheduled for 03/22/2018 at 10:00 am has been resulted as follows: Result: VACATED PROCEEDINGS Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT	STRACY	0.00	0.00
26	01/04/19	MOTION TO PRODUCE DEFENDANT FILED	LRIGNEY	0.00	0.00
27	01/04/19	ORDER TO PRODUCE FILED	LRIGNEY	0.00	0.00
28	01/05/19	STATUS REVIEW HEARING SCHEDULED Event: STATUS HEARING (NEW RIVER) Date: 02/28/2019 Time: 9:00 am Judge: RICHARDS, MICHAEL Location: NEW RIVER TOWNSHIP JUSTICE COURT	LRIGNEY	0.00	0.00

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No.	Filed	Action	Operator	Fine/Cost	Due
29	01/07/19	JUDGE CASELOAD TRANSFER FOR SPECIFIC JUDGE DETAILS, SEE JUDGE DEVIATION DISPLAY SCREEN PATH: SELECT THE CASE DISPOSITION (DISP.) BUTTON> OPEN THE CASE DISPOSITION> SELECT THE JUDGE DEVIATION (JUDGE DEV.) BUTTON	CWORTMAN	0.00	0.00
30	01/09/19	NOTICE OF ENTRY OF ORDER FILED.	LRIGNEY	0.00	0.00
31	02/28/19	Result: STATUS REVIEW HELD Judge: TROTTER, BENJAMIN PRESIDING. DDA LANE MILLS PRESENT. DEF. PRESENT FROM NDOC WITH COUNSEL PD SMITH. STATE ADV HAVE GLOBAL RESOLUTION ON ALL CASES. DEF. WILL WAIVE TO DISTRICT COURT ON 18CR45 & 18CR67 INCLUDING RESTITUTION ON ALL CASES. COURT APTS PD WOODMAN ON ALL CASES & PD SMITH WAIVES FORMAL READING ON ALL. PD SMITH & DDA MILLS WILL PROVIDE WAIVER TO CLERK @ COUNTER.	LRIGNEY	0.00	0.00
32	02/28/19	WAIVER OF PRELIMINARY HEARING FILED COPY DA & PD WOODMAN	LRIGNEY	0.00	0.00
33	03/01/19	PC & BOOKING SHEET FILED	LRIGNEY	0.00	0.00
34	03/01/19	JUSTICE COURT PROCEEDINGS ISSUED/PAPERWORK TRANSFERRED TO DISTRICT COURT	LRIGNEY	0.00	0.00
35	03/01/19	CASE CLOSED	LRIGNEY	0.00	0.00
Total:				0.00	0.00
Totals By: INFORMATION *** End of Report ***				0.00	0.00

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CASE NO 18 CR 45
14 CR 67

FILED
2019 FEB 28 AM 10:09

JUSTICE COURT
FALLON, NEVADA

IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
COUNTY OF CHURCHILL, STATE OF NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

William Jacob Martin
Defendant,

UNCONDITIONAL WAIVER OF
PRELIMINARY EXAMINATION

I, William Martin, the defendant in the above-entitled action, be fully advised of my right to a preliminary examination before this court, hereby unconditionally waive my right to a preliminary examination upon the charge(s) filed against me in the Criminal Complaint of any Amendments to the Criminal Complaint filed in this matter. I understand and consent that my case shall be transferred to the Tenth Judicial District Court of the State of Nevada, in and for the County of Churchill, to answer to the charge(s).

I further understand that this waiver is not conditioned upon any plea agreement that I may have reached with the State of Nevada. I fully understand that in the event I decide not to enter into such agreement at the District Court, I will not be entitled to a preliminary examination on any charge(s) filed against me upon the Criminal Complaint or Amendments to the Criminal Complaint.

DATED: This 28 day of Feb, 2019.

[Signature]
DEFENDANT

Attest:
This is to certify that the foregoing Unconditional Waiver of Preliminary Examination was knowingly and Voluntarily signed by the above named Defendant, in my presence, on the

28 day of February, 2019.

PWS
Witness/Attorney

2x Burglary, Free to argue, + Restitution in all cases not previously ordered. All remaining charges dismissed, no new charges pursued arising from those investigations.

FILED

2019 JAN -9 AM 10:30

JUSTICE COURT
FALLON, NEVADA

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Case No. 18-CR-00045

The undersigned hereby affirms that
this document does not contain the
social security number of any person.

IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
COUNTY OF CHURCHILL, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant.


NOTICE OF ENTRY OF ORDER

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Charles B. Woodman
Attorney at Law
548 West Plumb Lane, Suite B
Reno, NV 89509

NOTICE IS HEREBY GIVEN that the ORDER TO PRODUCE, a copy of which is
attached hereto, was duly entered in the above-entitled matter on the 4th day of January, 2019.

DATED: This 8 day of January, 2019.


Chelsea Sanford
Deputy District Attorney

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Case No. 18-CR-00045

FILED

2019 JAN -4 PM 5:03

JUSTICE COURT
FALLON, NEVADA

The undersigned hereby affirms that
this document does not contain the
social security number of any person.

IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
COUNTY OF CHURCHILL, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN

Defendant.

ORDER TO PRODUCE

It appearing to the satisfaction of the Court that it is necessary that WILLIAM JACOB MARTIN (Inmate No. 95529), presently incarcerated with the Nevada Department of Corrections, be brought before this Court for proceedings in the above-entitled matter.

NOW, THEREFORE, IT IS HEREBY ORDERED, that pursuant to provisions of NRS 174.325, the Nevada Department of Corrections bring the said WILLIAM JACOB MARTIN before the New River Township Justice Court, on the 28th day of February, 2019 9:00 AM, and from time to time thereafter and at such times and places as may be ordered and directed by the Court for such proceedings as thereafter may be necessary and proper in the premises.

DATED this 4 day of January, 2019.



Judge

CERTIFICATE OF SERVICE

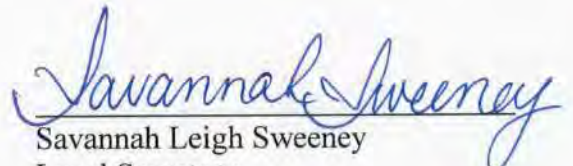
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On the 9 day of January, 2019, I was an employee of the District Attorney's Office and that the foregoing **NOTICE OF ENTRY OF ORDER**, was served to the following address(s):

Charles B. Woodman
Attorney at Law
548 West Plumb Lane, Suite B
Reno, NV 89509

By:

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered


Savannah Leigh Sweeney
Legal Secretary

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

FILED

2019 JAN -4 PM 5:04

JUSTICE COURT
FALLON, NEVADA

1 Case No. 18-CR-00045

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The undersigned hereby affirms that
this document does not contain the
social security number of any person.

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IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP

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COUNTY OF CHURCHILL, STATE OF NEVADA

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THE STATE OF NEVADA,

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Plaintiff,

11

vs.

ORDER TO PRODUCE

12

WILLIAM JACOB MARTIN

13

Defendant.

14

It appearing to the satisfaction of the Court that it is necessary that WILLIAM
JACOB MARTIN (Inmate No. 95529), presently incarcerated with the Nevada
Department of Corrections, be brought before this Court for proceedings in the above-
entitled matter.

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NOW, THEREFORE, IT IS HEREBY ORDERED, that pursuant to provisions
of NRS 174.325, the Nevada Department of Corrections bring the said WILLIAM
JACOB MARTIN before the New River Township Justice Court, on the 28th day of
February, 2019 9:00 AM, and from time to time thereafter and at such times and places
as may be ordered and directed by the Court for such proceedings as thereafter may be
necessary and proper in the premises.

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DATED this 4 day of January, 2019.

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Judge

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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Case No. 18-CR-00045

FILED

2019 JAN -4 PM 1:44

JUSTICE COURT
FALLON, NEVADA

The undersigned hereby affirms that
this document does not contain the
social security number of any person.

IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
COUNTY OF CHURCHILL, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant.

**MOTION TO PRODUCE
DEFENDANT**

COMES NOW, the State of Nevada, Plaintiff herein, by and through Lane R. Mills,
Chief Deputy District Attorney of Churchill County, Nevada, and alleges as follows:

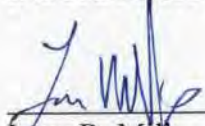
1. That WILLIAM JACOB MARTIN (Inmate No. 95529) is presently incarcerated with the Nevada Department of Corrections at the Ely State Prison.
2. That the above-entitled matter is set for Felony Status Hearing on February 28, 2019 9:00 AM.
3. That WILLIAM JACOB MARTIN (Inmate No. 95529) is the Defendant in the above-entitled matter.

WHEREFORE, applicant prays that an Order be made pursuant to NRS 174.325 ordering the appearance of the said WILLIAM JACOB MARTIN (Inmate No. 95529) before the New River Township Justice Court, on February 28, 2019 9:00 AM, and from time to time at such times and places as may be ordered and directed by the Court for such proceedings as thereafter

1 may be necessary and proper in the premises, and directing the execution of said Order by the
2 Nevada Department of Corrections.

3 DATED: This 4 day of January, 2019.

4
5 ARTHUR E. MALLORY
DISTRICT ATTORNEY

6
7 

8 _____
9 Lane R. Mills
10 Chief Deputy District Attorney
Churchill County
165 North Ada Street
Fallon, NV 89406

11 Churchill County District Attorney
12 165 North Ada Street
13 Fallon, Nevada 89406
14 (775) 423-6561 Fax (775) 423-6528
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CERTIFICATE OF SERVICE


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On the 4 day of January, 2019, I was an employee of the District Attorney's Office and that the foregoing **MOTION TO PRODUCE DEFENDANT** was served to the following address(s):

Charles B. Woodman
Attorney at Law
548 West Plumb Lane, Suite B
Reno, NV 89509

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered


Savannah Leigh Sweeney
Legal Secretary

1 CASE NO. 18 CR 00028, 18 CR 00044, 18 CR 00045, 18 CR 00067,
2 18 CR 00069, 17 CR 00221

FILED

2018 MAR 10 AM 9:53

3 JUSTICE COURT
4 FALLON, NEVADA

5
6 IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
7 COUNTY OF CHURCHILL, STATE OF NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 WILLIAM MARTIN,

12 Defendant,

13
14 **NOTICE OF STATUS HEARING**


15 To: Arthur Mallory
16 165 N. Ada Street
17 Fallon, NV 89406

Charlie Woodman
548 W. Plumb Lane, Suite B
Reno, NV 89509

18 YOU AND EACH OF YOU will please take notice that I, the undersigned Judge before
19 who the above-entitled cause is pending, have set the cause for **status hearing** before me in the
20 Justice's Court, 71 North Maine Street, Fallon, Nevada at the hour of **10:00 A.M. on the 22nd**
21 **day of March, 2018.**

22 Dated this 10th day of March, 2018

23 MICHAEL D. RICHARDS, JUDGE
24 New River Township Justice Court

25 By: 
26 Justice Court Clerk

1 CASE NO. 18 CR 00028 / 18 CR 00044 / 18 CR 00045 / 18 CR 00067 / 18 CR 00069

2 IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
3 COUNTY OF CHURCHILL, STATE OF NEVADA

4 THE STATE OF NEVADA,

5 Plaintiff,

6 vs.

7 WILLIAM JACOB MARTIN,

8 Defendant,

9 NOTICE OF STATUS HEARING

2018 FEB 22 PM 2:11
FILED
JUSTICE COURT
FALLON, NEVADA

10
11 To: Arthur Mallory
12 165 N. Ada Street
13 Fallon, NV 89406

Charlie Woodman
548 W. Plumb Lane, Suite B
Reno, NV 89509

14 YOU AND EACH OF YOU will please take notice that I, the undersigned Judge before
15 who the above-entitled cause is pending, have set the cause for status hearing before me in the
16 Justice's Court, 71 North Maine Street, Fallon, Nevada at the hour of 9:15 A.M. on the 8TH day
17 of MARCH, 2018.

18 Dated this 22ND day of FEBRUARY, 2018

19 MICHAEL D. RICHARDS, JUDGE
20 New River Township Justice Court

21 By: 
22 Justice Court Clerk
23
24
25
26

FILED

CASE NO: 18 CR 00069 / 18 CR 00067 / 18 CR 00045 / 18 CR 00044 / 18 CR 00028

FILED 15 APR 11:32
JUSTICE COURT
FALLON, NEVADA

IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
COUNTY OF CHURCHILL, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant,

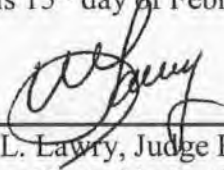
ORDER REDUCING BAIL

A hearing having been held with Judge Pro-Tem, William L. Lawry, presiding, the State of Nevada being present, the defendant being present without counsel and good cause appearing therefore;

IT IS HEREBY ORDERED bail be reduced to **\$30,000 bondable.**

IT IS FURTHERED ORDERED that in accordance with Nevada Revised Statute 178.4851 (6): any law enforcement officer is to arrest the above named defendant; if they have probable cause to believe that the defendant has violated a condition of his/her release.

Dated this 15th day of February, 2018



William L. Lawry, Judge Pro-Tem
New River Township Justice Court

1 CASE NO. 18 CR 00045 / 18 CR 00044 / 18 CR 00028

FILED

2018 FEB 15 AM 10:26

JUSTICE COURT
FALLON, NEVADA

3
4
5 IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
6 COUNTY OF CHURCHILL, STATE OF NEVADA

7 THE STATE OF NEVADA,

8
9 Plaintiff,

10 vs.

11 WILLIAM MARTIN,

12 Defendant,

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14 **NOTICE OF STATUS HEARING**

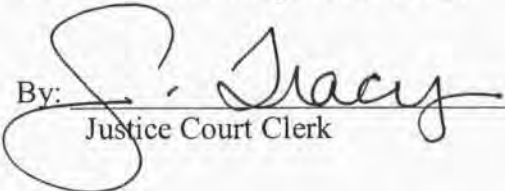
15 To: Arthur Mallory
16 165 N. Ada Street
17 Fallon, NV 89406

Charlie Woodman
548 W. Plumb Lane, Suite B
Reno, NV 89509

18 YOU AND EACH OF YOU will please take notice that I, the undersigned Judge before
19 who the above-entitled cause is pending, have set the cause for **status hearing** before me in the
20 Justice's Court, 71 North Maine Street, Fallon, Nevada at the hour of **8:45 A.M. on the 22ND**
21 **day of FEBRUARY, 2018.**

22 Dated this 15th day of February, 2018

23 WILLIAM L. LAWRY, JUDGE
24 New River Township Justice Court

25 By: 
26 Justice Court Clerk

1 CASE NO. 18 CR 00028 / 18 CR 00044 / 18 CR 00045

FILED

2 IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP

2018 FEB -9 PM 2:40

3 COUNTY OF CHURCHILL, STATE OF NEVADA

JUSTICE COURT
FALLON, NEVADA

4
5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 WILLIAM JACOB MARTIN,

9 Defendant,

10
11 **NOTICE OF STATUS HEARING**

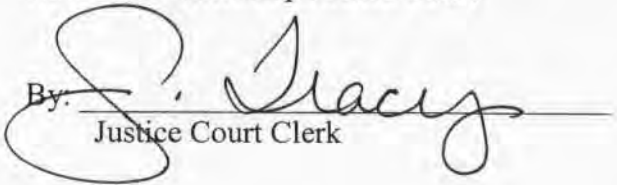
11 To: Arthur Mallory
12 165 N. Ada Street
13 Fallon, NV 89406

Charlie Woodman
548 W. Plumb Lane, Suite B
Reno, NV 89509

14 YOU AND EACH OF YOU will please take notice that I, the undersigned Judge before
15 who the above-entitled cause is pending, have set the cause for **status hearing** before me in the
16 Justice's Court, 71 North Maine Street, Fallon, Nevada at the hour of **9:15 A.M. on the 15TH**
17 **day of FEBRUARY, 2018.**

18 Dated this 9TH day of FEBRUARY, 2018

19 WILLIAM L. LAWRY, JUDGE
20 New River Township Justice Court

21
22 By: 
23 Justice Court Clerk

FILED

1 CASE NO 18 CR 00044 & 18 CR 00045

2018 FEB -2 AM 11: 06

JUSTICE COURT
FALLON, NEVADA

3
4
5 IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
6 COUNTY OF CHURCHILL, STATE OF NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 WILLIAM MARTIN,

12 Defendant,
13

**ORDER APPOINTING COUNSEL AND
SETTING STATUS HEARING**

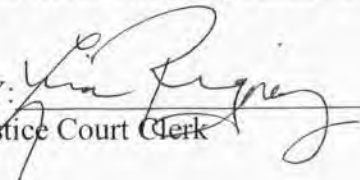
14
15 The defendant above-named, having appeared in court and having requested counsel, and
16 the court having appointed the Churchill County Public Defender, and good cause appearing
17 therefore;

18 IT IS HEREBY ORDERED that **CHARLIE WOODMAN**, Attorney at Law, be, and the
19 same hereby is, appointed as Public Defender, to represent the defendant in the above entitled
20 matter(s).

21 IT IS FURTHER ORDERED that this matter is set for **STATUS hearing** before me in
22 the Justice's Court, 71 North Maine Street, Fallon, Nevada at the hour of **8:45 A.M.** on the **8TH**
23 day of **FEBRUARY, 2018**.

DATED this 1st day of February, 2018.

MICHAEL D. RICHARDS, JUDGE
New River Township Justice Court

24
25
26 BY: 
Justice Court Clerk

DEFENDANT INFORMATION SHEET

MUST BE FILLED OUT COMPLETELY OR TO THE BEST OF YOUR KNOWLEDGE
Please write at neatly as you can

NAME: William Martin CASE # 18CR45 - 18CR44

MAILING ADDRESS: 4333 Reno Hwy Spc 32

PHYSICAL ADDRESS: _____

HOME PHONE 775-423-9819 CELL PHONE 775-573-0720

WORK PHONE _____ ALTERNATE # _____

EMPLOYER NAME: _____

FILED
2018 FEB -2 AM 10:04
JUSTICE COURT
FALLON, NEVADA

HAVE YOU EVER HAD ANY OF THE PUBLIC DEFENDERS LISTED BELOW?

YES / NO

IF YES, CIRCLE THE ATTORNEY.

JACOB SOMMER

CHARLES WOODMAN

DAVID NEIDERT

IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
COUNTY OF CHURCHILL, STATE OF NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant.

WARRANT OF ARREST

The State of Nevada

To any Sheriff, Constable, Marshal, Policeman or Peace Officer in this state:

A COMPLAINT upon oath has been this day laid before me by Investigator Paul Loop that the offenses of **COUNT 1, FRAUDULENT USE OF CREDIT CARD OR DEBIT CARD, OR IDENTIFYING DESCRIPTION OF CREDIT ACCOUNT OR DEBIT CARD; PRESUMPTION OF KNOWLEDGE OF REVOCATION OF CREDIT CARD OR DEBIT CARD, a Category D Felony, in violation of, NRS 205.760(1)(b), COUNT 2, FRAUDULENT USE OF CREDIT CARD OR DEBIT CARD, OR IDENTIFYING DESCRIPTION OF CREDIT ACCOUNT OR DEBIT CARD; PRESUMPTION OF KNOWLEDGE OF REVOCATION OF CREDIT CARD OR DEBIT CARD, a Category D Felony, in violation of, NRS 205.760(1)(b), COUNT 3, BURGLARY, a Category B Felony, in violation of, NRS 205.060(2), and COUNT 4, BURGLARY, a Category B Felony, in violation of, NRS 205.060(2)**, has/have been committed, and accusing William Jacob Martin thereof. Defendant is a White Male; DOB: 08/14/83; WGT: 215; HGT: 6' 00"; HAIR: Brown; EYES: Green; Last known address: 1975 South Allen Road, Fallon, Nevada.

YOU ARE THEREFORE COMMANDED forthwith to arrest the above-named defendant **WILLIAM JACOB MARTIN** and bring said Defendant before me in the New River Township Justice Court, County of Churchill, State of Nevada, or in case of my absence or inability to act, before the nearest or most accessible magistrate in this County.

WITNESS, my hand this 29 day of JAN, A.D., 2018, and I direct that this WARRANT may be served at any hour of the day or night.

Justice of the Peace of New River Township
County of Churchill, State of Nevada

DATED: This 29 day of JAN, of 2018.
Bond is hereby set at \$30,000.00 Dollars.

Justice of the Peace of New River Township
County of Churchill, State of Nevada

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///

I HEREBY CERTIFY that I received the above Warrant on the _____ day of _____, A.D., 2018, and served the said Warrant by arresting the within named Defendant **WILLIAM JACOB MARTIN.**

County of Churchill, State of Nevada

FILED

2018 JAN 26 AM 10: 28

JUSTICE COURT
FALLON, NEVADA

1 Case No. 18CR00045

2
3
4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.
7

8 IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
9 COUNTY OF CHURCHILL, STATE OF NEVADA

10 STATE OF NEVADA,

11 Plaintiff,

12 vs.

13 WILLIAM JACOB MARTIN,

14 Defendant.

CRIMINAL COMPLAINT

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

15
16 I, INVESTIGATOR PAUL LOOP, with the Churchill County Sheriff's Office, declaring
17 under penalty of perjury under the laws of the State of Nevada, complains and charges

18 **WILLIAM JACOB MARTIN**, with having committed the following:

19 **COUNT 1**
20 **FRAUDULENT USE OF CREDIT CARD OR DEBIT CARD, OR IDENTIFYING**
21 **DESCRIPTION OF CREDIT ACCOUNT OR DEBIT CARD; PRESUMPTION OF**
22 **KNOWLEDGE OF REVOCATION OF CREDIT CARD OR DEBIT CARD a Category D**
23 **Felony, in violation of NRS 205.760(1)(b)**

24 That within declarant's information and belief, **WILLIAM JACOB MARTIN**, on or
25 about the 21st day of December, 2017, and prior to the filing of this CRIMINAL COMPLAINT,
26 at or near 890 West Williams Avenue, Fallon, Churchill County, Nevada, did willfully,
27 unlawfully and with the intent to defraud use the number or other identifying description of a
28 credit account, customarily evidenced by a credit card or the number or other identifying
description of a debit card, to obtain money, goods, property, services or anything of value

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 without the consent of the cardholder, to wit: said Defendant did use a credit card belonging to
2 Vanessa Hammond to purchase goods from Safeway totaling Thirty Dollars and Twenty-One
3 Cents (\$30.21).

4
5 **COUNT 2**
6 **FRAUDULENT USE OF CREDIT CARD OR DEBIT CARD, OR IDENTIFYING**
7 **DESCRIPTION OF CREDIT ACCOUNT OR DEBIT CARD; PRESUMPTION OF**
8 **KNOWLEDGE OF REVOCATION OF CREDIT CARD OR DEBIT CARD a Category D**
9 **Felony, in violation of NRS 205.760(1)(b)**

10 That within declarant's information and belief, **WILLIAM JACOB MARTIN**, on or
11 about the 21st day of December, 2017, and prior to the filing of this CRIMINAL COMPLAINT,
12 at or near 2333 West Williams Avenue, Fallon, Churchill County, Nevada, did willfully,
13 unlawfully and with the intent to defraud use the number or other identifying description of a
14 credit account, customarily evidenced by a credit card or the number or other identifying
15 description of a debit card, to obtain money, goods, property, services or anything of value
16 without the consent of the cardholder, to wit: said Defendant did use a credit card belonging to
17 Vanessa Hammond to purchase goods from Walmart totaling Three Hundred Ninety-One
18 Dollars and Ninety-Eight Cents (\$391.98).

19 **COUNT 3**
20 **BURGLARY a Category B Felony, in violation of NRS 205.060(2)**

21 That within declarant's information and belief, **WILLIAM JACOB MARTIN**, on or
22 about the 21st day of December, 2017, and prior to the filing of this CRIMINAL COMPLAINT,
23 at or near 890 West Williams Avenue, Fallon, Churchill County, Nevada, did, by day or night,
24 enter any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse
25 or other building, tent vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider,
26 boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any
27 person or any felony, or to obtain money or property by false pretenses, to wit: said Defendant
28 did enter Safeway located at 890 West Williams Avenue with the intent to commit a felony.

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COUNT 4

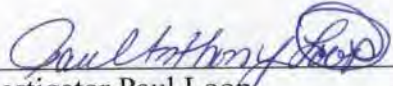
BURGLARY a Category B Felony, in violation of NRS 205.060(2)

That within declarant's information and belief, **WILLIAM JACOB MARTIN**, on or about the 21st day of December, 2017, and prior to the filing of this CRIMINAL COMPLAINT, at or near 2333 West Williams Avenue, Fallon, Churchill County, Nevada, did, by day or night, enter any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, to wit: said Defendant did enter Walmart located at 2333 West Williams Avenue with the intent to commit a felony.

All of which is contrary to the form, force and effect of the statute in such cases made and provided, and against the peace and dignity of the State of Nevada.

I declare under pains and penalties of perjury under the laws of the State of Nevada, that the foregoing is true and correct.

DATED: this 25th day of January, 2018


Investigator Paul Loop
Churchill County Sheriff's Office

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Case No.: 18CR00045

FILED

2018 JAN 26 AM 10:28

JUSTICE COURT
FALLON, NEVADA

IN THE JUSTICE'S COURT OF NEW RIVER TOWNSHIP
COUNTY OF CHURCHILL, STATE OF NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant.

**APPLICATION FOR ARREST
WARRANT**

I, INVESTIGATOR PAUL LOOP, declare under pains and penalties of perjury as evidence by my signature affixed hereto:

1. That I am a duly appointed Investigator with the Churchill County Sheriff's Office.
2. That, in that capacity, I obtained facts, information, or observed circumstances relating to the commission of the offenses of **COUNT 1, FRAUDULENT USE OF CREDIT CARD OR DEBIT CARD, OR IDENTIFYING DESCRIPTION OF CREDIT ACCOUNT OR DEBIT CARD; PRESUMPTION OF KNOWLEDGE OF REVOCATION OF CREDIT CARD OR DEBIT CARD, a Category D Felony, in violation of, NRS 205.760(1)(b), COUNT 2, FRAUDULENT USE OF CREDIT CARD OR DEBIT CARD, OR IDENTIFYING DESCRIPTION OF CREDIT ACCOUNT OR DEBIT CARD; PRESUMPTION OF KNOWLEDGE OF REVOCATION OF CREDIT CARD OR DEBIT CARD, a Category D Felony, in violation of, NRS 205.760(1)(b), COUNT 3, BURGLARY, a Category B Felony, in violation of, NRS 205.060(2), and COUNT 4, BURGLARY, a Category B Felony, in violation of, NRS 205.060(2), committed on or about the**

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dates listed below, which investigation developed **WILLIAM JACOB MARTIN** as the perpetrator.

- a. That within declarant's information and belief, **WILLIAM JACOB MARTIN**, on or about 21st day of December, 2017 and prior to the filing of this criminal complaint, at or near 890 West Williams Avenue, Fallon, Nevada, did willfully, unlawfully and with the intent to defraud use the number or other identifying description of a credit account, customarily evidenced by a credit card or the number or other identifying description of a debit card, to obtain money, goods, property, services or anything of value without the consent of the cardholder, to wit: said Defendant did use a credit card belonging to Vanessa Hammond to purchase goods from Safeway totaling Thirty Dollars and Twenty-One Cents (\$30.21).
- b. That within declarant's information and belief, **WILLIAM JACOB MARTIN**, on or about 21st day of December, 2017 and prior to the filing of this criminal complaint, at or near 2333 West Williams Avenue, Fallon, Nevada, did willfully, unlawfully and with the intent to defraud use the number or other identifying description of a credit account, customarily evidenced by a credit card or the number or other identifying description of a debit card, to obtain money, goods, property, services or anything of value without the consent of the cardholder, to wit: said Defendant did use a credit card belonging to Vanessa Hammond to purchase goods from Walmart totaling Three Hundred Ninety-One Dollars and Ninety-Eight Cents (\$391.98).
- c. That within declarant's information and belief, **WILLIAM JACOB MARTIN**, on or about 21st day of December, 2017 and prior to the filing of this criminal complaint, at or near 890 West Williams Avenue, Fallon, Nevada, did, by day or night, enter any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, to wit: said Defendant did enter Safeway located at 890 West Williams Avenue with the intent to commit a felony.

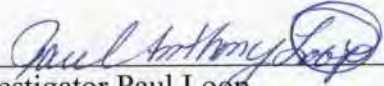
d. That within declarant's information and belief, **WILLIAM JACOB MARTIN**, on or about 21st day of December, 2017 and prior to the filing of this criminal complaint, at or near 2333 West Williams Avenue, Fallon, Nevada, did, by day or night, enter any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, to wit: said Defendant did enter Walmart located at 2333 West Williams Avenue with the intent to commit a felony.

WILLIAM JACOB MARTIN is described as a White Male; DOB: 08/14/83; WGT: 215; HGT: 6' 00"; HAIR: Brown; EYES: Green; Last known address: 1975 South Allen Road, Fallon, Nevada.

WHEREFORE, declarant prays that an arrest warrant be issued for the arrest of WILLIAM JACOB MARTIN on the above-referenced charge(s).

I declare under pains and penalties of perjury under the laws of the State of Nevada, that the foregoing is true and correct.

DATED: this 25th day of January, 2018


Investigator Paul Loop
Churchill County Sheriff's Office

Churehill County District Attorney
165 North Ada Street
Fallon Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Case No.: 19-100C-0289

Dept. No.: 1

FILED

2019 MAR -6 AM 11:22

The undersigned hereby affirms that
this document does not contain the
social security number of any person.

SUE SEVON
COURT CLERK

BY *Bennett*

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE
OF NEVADA, IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,

Plaintiff,

vs.

INFORMATION

WILLIAM JACOB MARTIN,

Defendant.

LANE R. MILLS, Chief Deputy District Attorney of Churchill County, Nevada, informs
the above-entitled Court that **WILLIAM JACOB MARTIN**, the Defendant above-named, has
committed the offense of **COUNT 1, BURGLARY, a Category B Felony, in violation of NRS
205.060(2)** committed as follows:

COUNT 1

BURGLARY, a Category B Felony, in violation of NRS 205.060(2)

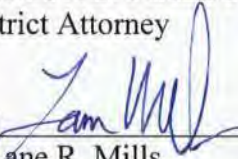
That within declarant's information and belief, **WILLIAM JACOB MARTIN**, on or
about the 21st day of December, 2017, and prior to the filing of this INFORMATION, at or near
890 West Williams Avenue, Fallon, Churchill County, Nevada, did, by day or night, enter any
house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other
building, tent vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or
railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or
any felony, or to obtain money or property by false pretenses, to wit: said Defendant did enter
Walmart located at 2333 West Williams Avenue with the intent to commit a credit card fraud a
felony.

Churchill County District Attorney
165 North Ada Street
Fallon Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 All of which is contrary to the form, force and effect of the statute in such cases made and
2 provided, and against the peace and dignity of the State of Nevada.

3 DATED: This 11 day of March, 2019

4
5 ARTHUR E. MALLORY,
6 District Attorney

7 By: 
8 Lane R. Mills
9 Chief Deputy District Attorney

10 The following are the names of such witnesses as are known to me at the time of filing
11 the within information:

12 Tatum Joe Bell	210 West D Street Fallon, NV 89406
13 Kim Renay Cecil	180 West A Street Fallon, NV 89406
14 Breanna Catherine Fain	2215 CHRISTIE CIR; COUNTY FALLON, NV 89406
15 Dylan Mykel Gray	578 Discovery Drive Fallon, NV 89406
16 Vanessa Hammond	2335 Hammond Drive Fallon, NV 89406
17 Nicholas Richard Luesing	180 West A Street Fallon, NV 89406
18 Steven Randall Richards	689 Keppel Street Fallon, NV 89406
19 Halsey Lynn Thompson	345 Russell Street Fallon, NV 89406

JAP

FILED

Case No. 19-10DC-00289/290
Dept. No. I

2019 MAR -6 PM 3:42

SUE SEVON
COURT CLERK

BY J. Bennett

**IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL**

THE STATE OF NEVADA,

Plaintiff,

Vs.

ORDER OF RECUSAL

WILLIAM JACOB MARTIN,

Defendant.

The above titled case is currently assigned to District Judge, Thomas L. Stockard.

Pursuant to Judicial Code of Conduct, Cannon 2.11(6)(a-b), Judge Stockard recuses himself from deciding or hearing this matter; and good cause appearing therefore;

IT IS HEREBY ORDERED that the Court Administrator in accordance with the Supreme Court of Nevada, Administrative Order, filed May 1, 2017 arrange for Judge Jim Shirley to sit the arraignment hearing currently scheduled for April 9, 2019 at 4:00 p.m. in Courtroom 1; and to handle all further proceedings that may arise that are related to the above-entitled matter.

DATED this 6TH day of March, 2019.



THOMAS L. STOCKARD
DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that I served the foregoing **ORDER OF RECUSAL** on the parties, by depositing a copy thereof in the U.S. Mail at Fallon, Nevada, postage prepaid, addressed as follows:

Lane R. Mills, Esq.
Chief Deputy District Attorney
165 N. Ada Street
Fallon, NV 89406
Placed in District Court Box

Charles Woodman, Esq.
Public Defender
548 W. Plumb Lane, Suite B
Reno, NV 89509
Placed in District Court Box

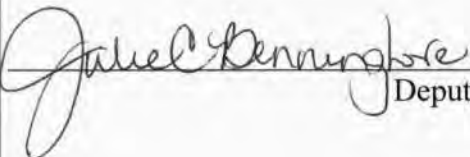
Parole and Probation
145 Keddie Street
Fallon, NV 89406
Placed in District Court Box

Churchill County Detention Center – *District Court Box*

DATED this 6th day of March, 2019.


Sue Sevon, Court Administrator

Subscribed and sworn to this
6th day of March, 2019.


Deputy Clerk

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CASE NO. 19-10DC-0289

DEPT. NO. I

The undersigned hereby affirms that this document
does not contain the social security number of any person.

FILED

2019 MAR -7 AM 11:08

SUE SEVON
COURT CLERK
BY Shirley Neaton DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant.

SETTING MEMO

The above-entitled matter is set for: **ARRAIGNMENT**

Date and Time: **APRIL 18, 2019 AT 4:00 P.M.**

Time Allowed: **10 MINUTES**

DATED this 17th day of March, 2019.

/JIM SHIRLEY
JIM SHIRLEY
DISTRICT COURT JUDGE

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CERTIFICATE OF SERVICE

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that I served the foregoing **SETTING MEMO** on the parties, as noted below:

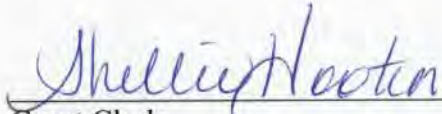
Charles B. Woodman Esq. ~ *District Court Box*

Lane R. Mills Esq. ~ *District Court Box*

Parole and Probation ~ *District Court Box*

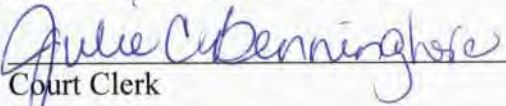
Churchill County Sheriff's Office ~ *District Court Box*

DATED this 7th day of March, 2019.



Court Clerk

Subscribed and Sworn to before me
this 7th day of March, 2019.



Court Clerk

Jeb

FILED

2019 MAR 11 PM 3: 23

SUE SEVON
COURT CLERK

BY J. Pennington DEPUTY

1 Case No. 19-10DC-0289

2 Dept. No. 1

3

4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.

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IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CHURCHILL

8

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10

THE STATE OF NEVADA,

11

Plaintiff,

12

vs.

**MOTION TO PRODUCE
DEFENDANT**

13

WILLIAM JACOB MARTIN,

14

Defendant.

15

COMES NOW, the State of Nevada, Plaintiff herein, by and through Lane R. Mills,
Chief Deputy District Attorney of Churchill County, Nevada, and alleges as follows:

16

17

1. That WILLIAM JACOB MARTIN (Inmate No. 95529) is presently incarcerated
with the Nevada Department of Corrections at the Northern Nevada Correctional Center.

18

19

2. That the above-entitled matter is set for Felony Status Hearing on April 18, 2019
4:00 PM.

20

21

3. That WILLIAM JACOB MARTIN (Inmate No. 95529) is the Defendant in the
above-entitled matter.

22

23

WHEREFORE, applicant prays that an Order be made pursuant to NRS 209.274 ordering
the appearance of the said WILLIAM JACOB MARTIN (Inmate No. 95529) before the Tenth
Judicial District Court, on April 18, 2019 4:00 PM, and from time to time at such times and
places as may be ordered and directed by the Court for such proceedings as thereafter may be

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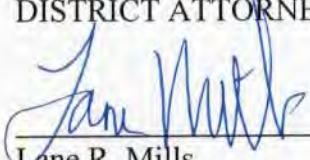
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Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 necessary and proper in the premises, and directing the execution of said Order by the Nevada
2 Department of Corrections.

3 DATED: This 11 day of March, 2019.

4
5 ARTHUR E. MALLORY
6 DISTRICT ATTORNEY

7 

8 Lane R. Mills
9 Chief Deputy District Attorney
10 Churchill County
11 165 North Ada Street
12 Fallon, NV 89406

13 Churchill County District Attorney
14 165 North Ada Street
15 Fallon, Nevada 89406
16 (775) 423-6561 Fax (775) 423-6528
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CERTIFICATE OF SERVICE

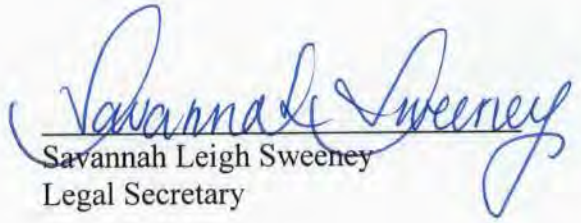
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On the 14th day of March, 2019, I was an employee of the District Attorney's Office and that the foregoing **MOTION TO PRODUCE DEFENDANT** was served to the following address(s):

Charles B. Woodman
Attorney at Law
548 West Plumb Lane, Suite B
Reno, NV 89509

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered


Savannah Leigh Sweeney
Legal Secretary

123

FILED

2019 MAR 13 PM 2:11

SUE SEVON
COURT CLERK

BY: Bennett DEPUTY

1 Case No. 19-10DC-0289

2 Dept. No. 1

3
4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.

7 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
8 IN AND FOR THE COUNTY OF CHURCHILL

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 WILLIAM JACOB MARTIN

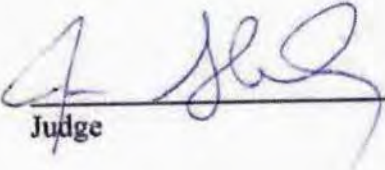
13 Defendant.

ORDER TO PRODUCE

14 It appearing to the satisfaction of the Court that it is necessary that WILLIAM
15 JACOB MARTIN (Inmate No. 95529), presently incarcerated with the Nevada
16 Department of Corrections, be brought before this Court for proceedings in the above-
17 entitled matter.

18 **NOW, THEREFORE, IT IS HEREBY ORDERED,** that pursuant to provisions
19 of NRS 209.274, the Nevada Department of Corrections bring the said WILLIAM
20 JACOB MARTIN before the Tenth Judicial District Court, on the 18th day of April,
21 2019 4:00 PM, and from time to time thereafter and at such times and places as may be
22 ordered and directed by the Court for such proceedings as thereafter may be necessary
23 and proper in the premises.

24 DATED this 12th day of March, 2019.

25
26 
27 Judge

Jep

1 Case No. 19-10DC-0289
2 Dept. No. 1
3

FILED
2019 MAR 15 AM 10:29
SUE SEVON
COURT CLERK
BY J Benning (DPNY)

4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.

7 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
8 IN AND FOR THE COUNTY OF CHURCHILL
9

10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

13 WILLIAM JACOB MARTIN,

14 Defendant.
15

NOTICE OF ENTRY OF ORDER

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

16 Charles B. Woodman
17 Attorney at Law
18 548 West Plumb Lane, Suite B
19 Reno, NV 89509

20 NOTICE IS HEREBY GIVEN that the ORDER TO PRODUCE, a copy of which is
21 attached hereto, was duly entered in the above-entitled matter on the 13th day of March, 2019.

22 DATED: This 14 day of March, 2019.

23 Lane R. Mills
24 Lane R. Mills
25 Chief Deputy District Attorney
26
27
28

1 Case No. 19-10DC-0289
2 Dept. No. 1

FILED
2019 MAR 13 PM 2:11

SUE SEVON
COURT CLERK
BY Bennett DEPUTY

3
4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.

7 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
8 IN AND FOR THE COUNTY OF CHURCHILL

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 WILLIAM JACOB MARTIN

13 Defendant.

ORDER TO PRODUCE

14 It appearing to the satisfaction of the Court that it is necessary that WILLIAM
15 JACOB MARTIN (Inmate No. 95529), presently incarcerated with the Nevada
16 Department of Corrections, be brought before this Court for proceedings in the above-
17 entitled matter.

18 **NOW, THEREFORE, IT IS HEREBY ORDERED**, that pursuant to provisions
19 of NRS 209.274, the Nevada Department of Corrections bring the said WILLIAM
20 JACOB MARTIN before the Tenth Judicial District Court, on the 18th day of April,
21 2019 4:00 PM, and from time to time thereafter and at such times and places as may be
22 ordered and directed by the Court for such proceedings as thereafter may be necessary
23 and proper in the premises.

24 DATED this 12th day of March, 2019.

25
26 
27 Judge

CERTIFICATE OF SERVICE

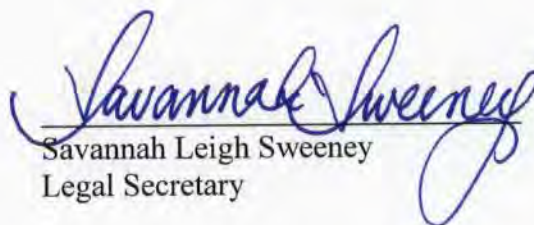
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On the 15th day of March, 2019, I was an employee of the District Attorney's Office and that the foregoing **NOTICE OF ENTRY OF ORDER**, was served to the following address(s):

Charles B. Woodman
Attorney at Law
548 West Plumb Lane, Suite B
Reno, NV 89509

By:

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered


Savannah Leigh Sweeney
Legal Secretary

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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Case No.: 19-10DC-0289

Dept. No.: 1

FILED

APR 18 2019

SUE SEVON, Clerk

By *Shuttig Hooden* Deputy Clerk

The undersigned hereby affirms that this document does not contain the social security number of any person.

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE
OF NEVADA, IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,

Plaintiff,

vs.

GUILTY PLEA MEMORANDUM

WILLIAM JACOB MARTIN,
Defendant.

I, **WILLIAM JACOB MARTIN**, hereby agree to plead guilty to the charge of **COUNT 1, BURGLARY, a Category B Felony, in violation of NRS 205.060(2)** as more fully alleged in the Information filed in this matter.

My decision to plead guilty is based upon the plea agreement in this case which is as follows:

The State has agreed that in exchange for my entry of a guilty plea to the charge of **COUNT 1, BURGLARY, a Category B Felony, in violation of NRS 205.060(2)** the State will be free to argue at the time of sentencing. Additionally, I agree to pay restitution in the New River Township Justice Court, Case Number 18-CR-00069, 18-CR-00147, 18-CR-00144, 19-CR-00084, 18-CR-00044, 18-CR-00145, 18-CR-00028, and 18-CR-00128.

I also agree to enter a guilty plea to the charge of **COUNT 1, BURGLARY, a Category B Felony, in violation of NRS 205.060(2)** in District Court Case Number 19-10DC-0290.

I understand that if the State of Nevada has agreed to recommend or stipulate to a particular sentence or has agreed not to present argument regarding the sentence, or agrees not

1 to oppose a particular sentence, such agreement is contingent upon my appearance in Court on
2 the initial sentencing date (and any subsequent date if the sentencing is continued). I understand
3 that if I fail to appear for the scheduled sentencing date or I commit a new criminal offense prior
4 to sentencing, the State of Nevada would regain the full right to argue for any lawful sentence.

5 CONSEQUENCES OF THE PLEA

6 I understand that by pleading guilty I admit the facts which support all the elements of
7 the offenses to which I now plead as set forth in the Information. I fully understand that this
8 admission may be used against me in a trial should I fail to abide by the terms and conditions of
9 this agreement, and knowingly waive any objection thereto.

10 I understand that as a consequence of my plea of guilty to the charge of **COUNT 1,**
11 **BURGLARY, a Category B Felony, in violation of NRS 205.060(2)** I may be imprisoned in
12 the state prison for a minimum term of not less than 1 year and a maximum term of not more
13 than 10 years, and I may be fined not more than Ten Thousand Dollars (\$10,000.00)..

14 I understand that the law requires me to pay an Administrative Assessment Fee.

15 I understand that if I am fined or assessed any fees by the Court that any fine or fee
16 constitutes a lien pursuant to NRS 176.275, and that if I do not satisfy and pay the lien that the
17 State of Nevada or their agent may pursue collections efforts in order to collect the fine
18 imposed. I also understand that the State of Nevada or their agent may also charge a fee in order
19 to collect from me any fine imposed.

20 I understand that, if appropriate, I will be ordered to make restitution to the victim of the
21 offense to which I am pleading guilty and to the victim of any related offense which is being
22 dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the
23 State of Nevada for any expenses related to my extradition, if any.

24 I understand that I am eligible for probation for the offense to which I am pleading
25 guilty. I understand that if more than one sentence of imprisonment is imposed and I am
26 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order the
27 sentences be served concurrently or consecutively. I also understand that information regarding
28

1 charges not filed, dismissed charges, or charges to be dismissed pursuant to this agreement may
2 be considered by the judge at sentencing.

3 I understand if I am not a citizen of the United States that any conviction for a crime
4 may cause my deportation from the country.

5 I have not been promised or guaranteed any particular sentence by anyone. I know that
6 my sentence is to be determined by the Court within the limits prescribed by statute.

7 I understand that if my attorney or the State of Nevada or both recommend any specific
8 punishment to the Court, the Court is not obligated to accept the recommendation.

9 I understand that the Division of Parole and Probation will prepare a report for the
10 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
11 sentencing, including my criminal history. This report may contain hearsay information
12 regarding my background and criminal history. My attorney and I will each have the
13 opportunity to comment on the information contained in the report at the time of sentencing.
14 Unless the District Attorney has specifically agreed otherwise, then the District Attorney may
15 also comment on this report.

16 I understand that any victim(s) in this case will be allowed to submit a statement or
17 personally appear and reasonably express any views concerning the crime, the person
18 responsible, the impact of the crime on the victim and the need for restitution pursuant to NRS
19 176.015.

20 WAIVER OF RIGHTS

21 By entering my plea of guilty, I understand that I have waived the following rights and
22 privileges:

23 1. The constitutional privilege against self-incrimination, including the right to
24 refuse to testify at trial, in which event the prosecution would not be allowed to comment to the
25 jury about my refusal to testify.

26 2. The constitutional right to a speedy and public trial by an impartial jury, free of
27 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
28

1 assistance of an attorney, either appointed or retained. At trial the State would bear the burden
2 of proving beyond a reasonable doubt each element of the offenses charged.

3 3. The constitutional right to confront and cross-examine any witnesses who would
4 testify against me.

5 4. The constitutional right to subpoena witnesses to testify on my behalf.

6 5. The constitutional right to testify in my own defense.

7 6. The right to appeal the conviction with the assistance of an attorney, either
8 appointed or retained, unless the appeal is based upon reasonable constitutional, jurisdictional or
9 other grounds that challenge the legality of the proceedings and except as otherwise provided in
10 subsection 3 of NRS 174.035. I agree that if I desire to appeal my Judgment of Conviction that
11 I will provide written notice of my desire to appeal to both the District Court and my attorney. I
12 understand that I must do so within thirty (30) days of my sentencing.

13 7. I hereby freely, knowingly and voluntarily waive my right to due process in
14 extradition without any and all of the formalities in law which might otherwise be available to
15 me. I further consent to return to the State of Nevada, when and if the agents, representatives or
16 officers of Churchill County, State of Nevada will transport me. I also agree to reimburse the
17 State of Nevada for any expenses related to said extradition, if any.

18 **VOLUNTARINESS OF PLEA**

19 I have discussed the elements of all of the original charge(s) against me with my
20 attorney and I understand the nature of the charge(s) against me.

21 I understand that the State would have to prove each element of the charge(s) against me
22 at trial.

23 I have discussed with my attorney any possible defenses, defense strategies and
24 circumstances which might be in my favor.

25 All of the foregoing elements, consequences, rights, and waiver of rights have been
26 thoroughly explained to me by my attorney.

27 I believe that pleading guilty and accepting this plea bargain is in my best interest, and
28 that a trial would be contrary to my best interest.

1 I am signing this agreement voluntarily, after consultation with my attorney, and I am
2 not acting under duress or coercion or by virtue of any promises of leniency, except for those set
3 forth in this agreement.

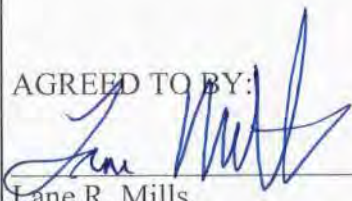
4 I am not now under the influence of any intoxicating liquor, a controlled substance or
5 other drug which would in any manner impair my ability to comprehend or understand this
6 agreement or the proceedings surrounding my entry of this plea.

7 My attorney has answered all my questions regarding this guilty plea agreement and its
8 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

9 DATED: This 18 ^{April} day of ~~March~~, 2019.

10
11 
12 WILLIAM JACOB MARTIN

13 AGREED TO BY:

14 
15 Lane R. Mills
16 Chief Deputy District Attorney
17 165 North Ada Street
18 Fallon, NV 89406
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Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

CERTIFICATE OF COUNSEL

I, the undersigned, as the attorney for the Defendant named herein and as an officer of the Court hereby certify that:

1. I have fully explained to the Defendant the allegations contained in the charge(s) to which guilty pleas are being entered.

2. I have advised the Defendant of the penalties for each charge and the restitution that the Defendant may be ordered to pay.

3. All pleas of guilty offered by the Defendant pursuant to this agreement are consistent with the facts known to me and are made with my advice to the Defendant and are in the best interest of the Defendant.

4. To the best of my knowledge, the Defendant:

a. Is competent and understands the charges and the consequences of pleading guilty as provided in this agreement.

b. Executed this agreement and will enter all guilty pleas pursuant hereto voluntarily.

c. Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time of the execution of this agreement.

DATED: This 18 day of April, 2019.



Charles B. Woodman
Attorney at Law
548 West Plumb Lane, Suite B
Reno, NV 89509

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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CASE NO. 19-10DC-0289

DEPT. NO. I

The undersigned hereby affirms that this document
does not contain the social security number of any person.

FILED
2019 APR 19 AM 9:25

SUE SEVON
COURT CLERK
BY Shirley Martin DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant.

SETTING MEMO

The above-entitled matter is set for: **SENTENCING**

Date and Time: **JUNE 20, 2019 AT 4:00 P.M.**

Time Allowed: **10 MINUTES**

DATED this 19 day of April, 2019.

/JIM SHIRLEY
JIM SHIRLEY
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that I served the foregoing **SETTING MEMO** on the parties, as noted below:

Charles B. Woodman Esq. ~ *District Court Box*

Lane R. Mills Esq. ~ *District Court Box*

Parole and Probation ~ *District Court Box*

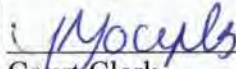
Churchill County Sheriff's Office ~ *District Court Box*

DATED this 19 day of April, 2019.



Court Clerk

Subscribed and Sworn to before me
this 19 day of April, 2019.



Court Clerk

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Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 Case No. 19-10DC-0289 AND 19-10DC-0290

2 Dept. No. 1

3
4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.

FILED
2019 APR 26 PM 3:32

SUE SEVON
COURT CLERK
BY Berninghoff

7 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
8 IN AND FOR THE COUNTY OF CHURCHILL

9
10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

13 WILLIAM JACOB MARTIN,

14 Defendant.

**MOTION TO PRODUCE
DEFENDANT**

15
16 COMES NOW, the State of Nevada, Plaintiff herein, by and through Lane R. Mills,
17 Chief Deputy District Attorney of Churchill County, Nevada, and alleges as follows:

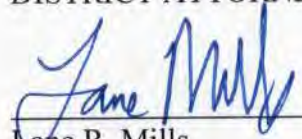
- 18 1. That WILLIAM JACOB MARTIN (Inmate No. 95529) is presently incarcerated
19 with the Nevada Department of Corrections at the Northern Nevada Corrections Facility.
20 2. That the above-entitled matter is set for Sentencing on June 20, 2019 4:00 PM.
21 3. That WILLIAM JACOB MARTIN (Inmate No. 95529) is the Defendant in the
22 above-entitled matter.

23 WHEREFORE, applicant prays that an Order be made pursuant to NRS 209.274 ordering
24 the appearance of the said WILLIAM JACOB MARTIN (Inmate No. 95529) before the Tenth
25 Judicial District Court, on June 20, 2019 4:00 PM, and from time to time at such times and
26 places as may be ordered and directed by the Court for such proceedings as thereafter may be
27 necessary and proper in the premises, and directing the execution of said Order by the Nevada
28 Department of Corrections.

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DATED: This 26 day of April, 2019.

ARTHUR E. MALLORY
DISTRICT ATTORNEY



Lane R. Mills
Chief Deputy District Attorney
Churchill County
165 North Ada Street
Fallon, NV 89406

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

CERTIFICATE OF SERVICE

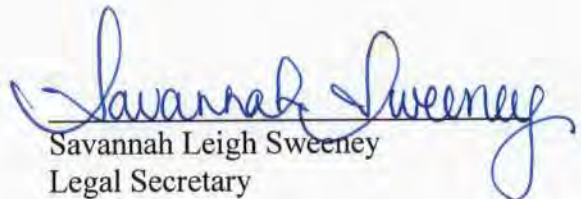
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On the 26th day of April, 2019, I was an employee of the District Attorney's Office and that the foregoing **MOTION TO PRODUCE DEFENDANT** was served to the following address(s):

Charles B. Woodman
Attorney at Law
548 West Plumb Lane, Suite B
Reno, NV 89509

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered
- Facsimile
- Email


Savannah Leigh Sweeney
Legal Secretary

Job

1 Case No. 19-10DC-0289 AND 19-10DC-0290

2 Dept. No. 1

FILED

2019 APR 26 PM 3: 33

3
4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.

SUE SEYON
COURT CLERK
BY: *[Signature]*

7 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
8 IN AND FOR THE COUNTY OF CHURCHILL

9 THE STATE OF NEVADA,
10
11 Plaintiff,
12 vs.
13 WILLIAM JACOB MARTIN
14 Defendant.

ORDER TO PRODUCE

15 It appearing to the satisfaction of the Court that it is necessary that WILLIAM
16 JACOB MARTIN (Inmate No. 95529), presently incarcerated with the Nevada
17 Department of Corrections, be brought before this Court for proceedings in the above-
18 entitled matter.

19 **NOW, THEREFORE, IT IS HEREBY ORDERED**, that pursuant to provisions
20 of NRS 209.274, the Nevada Department of Corrections bring the said WILLIAM
21 JACOB MARTIN before the Tenth Judicial District Court, on the 20th day of June, 2019
22 4:00 PM, and from time to time thereafter and at such times and places as may be ordered
23 and directed by the Court for such proceedings as thereafter may be necessary and proper
24 in the premises.

25 DATED this 20th day of April, 2019.

26
27 *[Signature]*
28 Judge

2

1 Case No. 19-10DC-0289 AND 19-10DC-0290

2 Dept. No. 1

FILED

2019 MAY -1 PM 3: 18

3
4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.

SUE SEYON
COURT CLERK
BY [Signature] DEPUTY

7 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
8 IN AND FOR THE COUNTY OF CHURCHILL

9
10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

NOTICE OF ENTRY OF ORDER

13 WILLIAM JACOB MARTIN,

14 Defendant.

15
16 Charles B. Woodman
17 Attorney at Law
18 548 West Plumb Lane, Suite B
19 Reno, NV 89509

20 NOTICE IS HEREBY GIVEN that the Order to Produce, a copy of which is attached
21 hereto, was duly entered in the above-entitled matter on the 26th day of April, 2019.

22 DATED: This 1 day of May, 2019.

23 [Signature]
24 Lane R. Mills
25 Chief Deputy District Attorney

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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1 Case No. 19-10DC-0289 AND 19-10DC-0290

2 Dept. No. 1

FILED

2019 APR 26 PM 3:33

3

4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.

SUPREMACY
COURT CLERK

BY: *J. Berninger*

6

7 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
8 IN AND FOR THE COUNTY OF CHURCHILL

9

THE STATE OF NEVADA.

10

Plaintiff,

11

vs.

ORDER TO PRODUCE

12

WILLIAM JACOB MARTIN

13

Defendant.

14

15 It appearing to the satisfaction of the Court that it is necessary that WILLIAM
16 JACOB MARTIN (Inmate No. 95529), presently incarcerated with the Nevada
17 Department of Corrections, be brought before this Court for proceedings in the above-
18 entitled matter.

18

19 NOW, THEREFORE, IT IS HEREBY ORDERED, that pursuant to provisions
20 of NRS 209.274, the Nevada Department of Corrections bring the said WILLIAM
21 JACOB MARTIN before the Tenth Judicial District Court, on the 20th day of June, 2019
22 4:00 PM, and from time to time thereafter and at such times and places as may be ordered
23 and directed by the Court for such proceedings as thereafter may be necessary and proper
24 in the premises.

24

DATED this 20th day of April, 2019.

25

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[Signature]

Judge

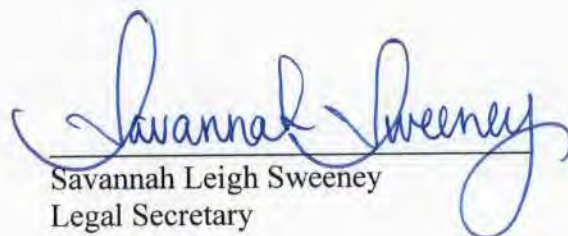
CERTIFICATE OF SERVICE

1
2 On the 1st day of May, 2019, I was an employee of the District Attorney's Office and
3 that the foregoing **NOTICE OF ENTRY OF ORDER**, was served to the following address(s):
4

5
6 Charles B. Woodman
7 Attorney at Law
8 548 West Plumb Lane, Suite B
9 Reno, NV 89509
10

11 By:

- 11 U.S. Mail
- 12 Certified Mail
- 13 Return Receipt Requested
- 14 Hand Delivered
- 15 Facsimile
- 16 Email

17
18
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20 
21 Savannah Leigh Sweeney
22 Legal Secretary
23
24
25
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28

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Document Filed Under Seal

Document: Pre-Sentence
Investigation Report

Filed: Not a filed document – received

Bate Stamped Pages: 57 – 68

****See Separate Certified Mailing****
Confidential Envelope

Jep

FILED

2019 JUN 25 PM 2: 54

1 Case No. 19-10DC-0289

2 Dept. No. 1

3
4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.

SUE SEVON
COURT CLERK
BY J. Bennett DEPUTY

6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF CHURCHILL

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 WILLIAM JACOB MARTIN,

12 Defendant.

JUDGMENT OF CONVICTION

14 On the 18th day of April, 2019, the above-named Defendant, WILLIAM JACOB
15 MARTIN, Date of Birth: August 14, 1983, Place of Birth: Jackson, Mississippi, entered a plea
16 of guilty to the crime(s) of: **COUNT 1, Burglary, a Category B Felony, in violation of NRS**
17 **205.060(2).**

18 Further, that at the time the Defendant entered the plea of guilty, this Court informed
19 the Defendant of the privilege against compulsory self-incrimination, the right to a speedy trial,
20 the right to a trial by jury, the right to compulsory process to compel witnesses to testify on
21 behalf of the Defendant, and the right to confront the accusers. That after being so advised, the
22 Defendant stated that these rights were understood and still desired this Court to accept the plea
23 of guilty.

24 Further, that at the time the Defendant entered a plea of guilty, and at the time of
25 sentencing, the Defendant was represented by an attorney, CHARLES B. WOODMAN, or the
26 duly appointed representative; also present in Court were the Churchill Court Clerk, or the duly
27 appointed representative, the Sheriff of Churchill County, or the duly appointed representative,
28 the District Attorney of Churchill County, Nevada, or the duly appointed representative,

1 representing the State of Nevada; and the Operations Supervisor, or the duly appointed
2 representative, representing the Division of Parole and Probation.

3 The Court having accepted the Defendant's plea of guilty, and having set the date of
4 June 20, 2019, as the date for imposing judgment and sentence and the Defendant having
5 appeared at such time, represented by counsel, and the Defendant having been given the
6 opportunity to exercise the right of allocution, and having shown no legal cause why judgment
7 should not be pronounced at that time.

8 This Court thereupon pronounced WILLIAM JACOB MARTIN guilty of:

9 **COUNT 1, Burglary, a Category B Felony, in violation of NRS 205.060(2).**

10 In accordance with the applicable statutes of the State of Nevada this Court sentenced
11 the Defendant to:

12 ON COUNT 1: imprisonment in the Nevada State Prison for a minimum term of 36
13 months, with a maximum term of 120 months, and a minimum parole eligibility of 36
14 months, consecutive to Tenth Judicial District Court Case Number 18-10DC-0049 and
15 to Second Judicial District Court Case Number CR18-0761.

16 In addition, said Defendant shall pay:

- 17 1. Restitution in the amount of Three Thousand Fifty-six Dollars and Thirty-five
18 Cents (\$3,056.35) to Nevada Division of Parole & Probation.
- 19 2. An Administrative Assessment Fee in the amount of Twenty-five Dollars (\$25.00)
20 to Tenth Judicial District Court.
- 21 3. A Chemical Analysis Fee in the amount of Three Dollars (\$3.00) to Tenth Judicial
22 District Court.

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28 ///

1 Pursuant to NRS 176.0913, Defendant must submit a biological specimen to determine
2 genetic markers and/or secretor status.

3 Therefore, the Clerk of the above-entitled Court is hereby directed to enter the
4 Judgment of Conviction as a part of the record in the above-entitled matter. The Clerk of the
5 Court is further ordered to provide Defendant's Exhibit #A and #B that were presented at
6 Sentencing and forward them to the Nevada Department of Corrections in a sealed envelope to
7 assist and be considered in the Defendant's rehabilitation.

8
9 DATED: This 25th day of June, 2019.

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DISTRICT COURT JUDGE

Case No.:19-10DC-0289

FILED

2019 JUN 26 PM 2:47

Dept. No. 1

SUE SEVON
COURT CLERK

BY *[Signature]* DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,
Plaintiff,

vs.

WILLIAM JACOB MARTIN,
Defendant.

RETURN OF SERVICE

SHERIFF'S OFFICE)
COUNTY OF CHURCHILL : ss.
STATE OF NEVADA)

RECEIVED of RICHARD HICKOX, Sheriff of Churchill County, State of Nevada, on this 20th day of June, 2019, one **WILLIAM JACOB MARTIN, to be committed to the Nevada State Prison for the crime(s) of COUNT 1, Burglary, a Category B Felony, in violation of NRS 205.060(2).** In accordance with the applicable statute(s) of the State of Nevada this Court sentenced the Defendant to:

ON COUNT 1: imprisonment in the Nevada State Prison for a minimum term of 36 months, with a maximum term of 120 months, and a minimum parole eligibility of 36 months, consecutive to Tenth Judicial District Court Case Number 18-10DC-0049 and to Second Judicial District Court Case Number CR18-0761.

JAMES DZURENDA, DIRECTOR
NEVADA DEPARTMENT OF PRISONS

By: *[Signature]*
DEPT. OF PRISONS TRANSPORTATION

4

1 Case No. 19-10DC-0289
2 Dept. No. 1

FILED
2019 JUN 26 PM 3:22
SUE SEVON
COURT CLERK
BY *[Signature]* DEPUTY

3
4 The undersigned hereby affirms that
5 this document does not contain the
6 social security number of any person.

7 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
8 IN AND FOR THE COUNTY OF CHURCHILL

9
10 THE STATE OF NEVADA,
11 Plaintiff,

12 vs.

13 WILLIAM JACOB MARTIN,
14 Defendant.

DECLARATION OF SERVICE

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

15 The undersigned declares under penalty of perjury:

16 That declarant enclosed in a sealed envelope upon which first class postage, fully
17 prepaid, was affixed, and deposited same in the United States Mail at Fallon, Churchill County,
18 Nevada, or emailed a copy of: JUDGMENT OF CONVICTION, addressed to:

19 Churchill County Sheriff's Office Parole and Probation Charles B. Woodman
20 180 West A Street fallonpnadmin@dps 548 West Plumb Lane, Ste. B
21 Fallon, NV 89406 .state.nv.us Reno, NV 89509

22 I declare under penalty of perjury that the foregoing is true and correct.

23 DATED: This 26th day of June, 2019.

24
25 *[Signature]*
26 Savannah Leigh Sweeney
27 Legal Secretary
28

RECEIVED SEP 23 2019

1 William J. Martin
2 #95524 N.N.C.C.
3 Carson City, NV 89406

FILED
2019 SEP 23 PM 12:41

4 Tenth Judicial District *SUE SEVON*
5 Churchill County *COURT CLERK*
6 *per above*
7 BY COURT DEPUTY

9
10 William J. Martin

Case No.: 19-100C-0290
19-100C-0289

11 Plaintiff,

MOTION FOR WITHDRAWAL
OF ATTORNEY OF RECORD AND
TRANSFER OF RECORDS

12 vs.

13 Charles Woodman
14 Public Defender

DATE OF HEARING: _____

Defendant

TIME OF HEARING: _____

15
16
17 NOTICE OF MOTION AND MOTION FOR WITHDRAWAL
OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS

18 COMES NOW, William J. Martin in PRO PER and herein above SUBMIT his
19 Notice of Motion and Motion for withdrawal of Attorney of Record and transfer of records, moving
20 this court to order that Charles Woodman, counsel of record in the
21 above-entitled action, be withdrawn as counsel of record herein, and that said counsel deliver to
22 defendant all documents, pleadings, papers, and tangible personal property in counsel's possession
23 and control to defendant, at counsel's expense, to the above address.

24 This motion is based upon NRS 7.055, Nevada Supreme Court Rules 46 & 166, and this
25 Courts Local Rule of Practice corresponding to this motion, as well as the attached points and
26 authorities and affidavit supporting same.
27
28

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 Although an attorney may not withdraw as counsel of record if doing so would adversely affect the
3 client's interest. Madrid v. Gomez, 150 F.3d 1030, 1038-39 (9th Cir. 1998), the client may terminate his counsel's
4 representation at any time. Kashef-Zihagh v. I.N.S., 791 F.2d 708, 711 (9th Cir. 1986). See NRS 7.055.

5 Upon being discharged by his client.

6 [The] attorney who has been discharged by his client shall, upon demand and
7 payment of the fee due from the client, IMMEDIATELY DELIVER TO THE
8 CLIENT all papers, documents, pleadings and items of tangible personal property,
9 which belong to or were prepared for that client. NRS 7.055(1) (emphasis added).
10 See also Nevada Supreme Court Rule (SCR) 46; Second Judicial District Court
11 Rule 23(1); and Eighth Judicial District Court Rule 7.40(b) (2) (ii).

12 As the judgment of conviction has been entered in this case, with appeal, if any, having
13 been perfected, counsel's services are no longer required in this criminal matter. Defendant has,
14 pursuant to the mandates of NRS 7.055 (3), directed counsel to forward to him all documentation
15 generated in this action and to withdraw as counsel of record, but counsel has failed to comply. See
16 Affidavit in support of instant motion.

17 Counsel's refusal to withdraw himself and forward said documentation to Defendant
18 violates the letter and spirit of SCR 46, which directs a discharged attorney to "protect a client's
19 interest" by "surrendering papers and property to which the client is entitled." Id. This rule
20 governing attorney conduct is a basic one of which the American Bar Association has recognized by
21 requiring of all attorneys within canon 2 of the Code of Professional Responsibility, EC2-32, and
22 Disciplinary Rule 2-110 (a) (2).

23 Counsel herein has no legal basis for withholding Defendant's papers in this matter. As
24 defendant owes counsel NO fees, which would permit counsel to maintain said papers under a
25 general or retaining lien. Figliuzzi v. District Court, 111 Nev. 338, 340-41, 890 P.2d 798, 800-02
26 (1995).

27 ///


28 ///

1 Therefore, this Court is moved to exercise its jurisdiction in this matter and ORDER
2 counsel to be withdrawn as counsel of record and deliver to Defendant the entirety of documentation
3 generated in the instant case, as Defendant has no other remedy at law to compel counsel to do so.

4
5 Dated this 18th day of Sept, 2019.

6
7
8
9 By:

William J. Martin


Defendant, in PRO PER

AFFIRMATION
Pursuant to NRS 239b.030

The undersigned does hereby affirm that the preceding document, Motion for
Withdrawal of Attorney of Record and Transfer of Records
(Title of Document)

Filed in case number: 19-100C-0290

Document does not contain the social security number of any person

Or

Document contains the social security number of a person as required by:

A specific state or federal law, to wit

Or

For the administration of a public program


Or

For an application for a federal or state grant

Or

Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230, and NRS 125b.055)

DATE: 9-18-19



(Signature)

William J. Martin
(Print Name)

Pro Se
(Attorney for)



RECEIVED SEP 23 2019

William J. Martin
95529 N.N.C.C
Carson City, NV 89702

FILED

2019 SEP 23 PM 12:41

SUE SEYON
COURT CLERK
[Signature]
DEPUTY

Tenth Judicial District
Churchill County

William J. Martin

Plaintiff,

vs.

Charles Woodman

Public Defender

Defendant

Case No.: 19-10DC-0290
19-10DC-0289

AFFIDAVIT IN SUPPORT OF MOTION FOR WITHDRAWAL
OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS

STATE OF NEVADA)

COUNTY OF Churchill)

ss: William Jacob Martin

COMES NOW, William J. Martin, in PRO PER who being first duly sworn and

under the penalty of perjury, does hereby depose and state the following:

(1) I am the Defendant in the above-entitled action.

(2) I mailed a letter to Charles Woodman on the 13th day of

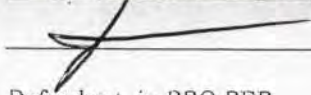
Sept, 20 19, which was at least five (5) days prior to the date indicated below,

wherein I gave notice to said counsel of his termination as counsel of record and instructed said counsel to so withdraw himself and forward to me my case files herein pursuant to NRS 7.055.

(3) I have received no response from said counsel, nor his office, as to my said instruction

1 I am therefore submitting the instant motion in good faith, as I have no other remedy than this
2 Court's power to enforce my statutory rights under NRS 7.055 to cause counsel to be withdrawn and
3 to send me my case files.

4
5 Dated this 18th day of Sept, 2019

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9 By: William J. Martin
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11 Defendant, in PRO PER

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VERIFICATION UNDER PENALTY OF PERJURY

I do verify under the penalty of perjury that the above affidavit is true and correct and is stated to the best of my knowledge, and is made without benefit of a notary pursuant to NRS 208.165, and 28 USC § 1746 as I am an incarcerated person.

Dated this 18th day of Sept, 2019

By: William J. Martin
Defendant, in PRO PER

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCPC Rule 5 (b), I hereby certify that I am the Petitioner/Defendant named herein and

that on this 18th day of Sept, 2019, I mailed a true and correct copy of the

foregoing Motion for Withdrawal of Attorney of Record and Transfer of Records to the following:

Tenth Judicial District Court
Fallon, NV

Charles Woodman
Public Defenders Office
Fallon, NV

BY: William J. Martin

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RECEIVED SEP 23 2019

1 William J. Martin
2 95529 N.N.C.C
3 Carson City, NV 89702

FILED

2019 OCT 14 AM 10:32

SUE SEVON
COURT CLERK

Shelli Hopton
DEPUTY

4 Tenth Judicial District Court
5 Churchill County

9 William J. Martin

Case No.: 19-100C-0290
19-100C-0289 ✓

11 Plaintiff,

12 vs.

13 Charles Woodman
14 Public Defender
15 Defendant

16 ORDER

17
18 THIS MATTER, having been duly considered by the Court, it is hereby ORDERED that the Defendant's
19 proper person Motion for Withdrawal of Attorney of Record and Transfer of records is hereby GRANTED.

20 Counsel Charles Woodman shall be withdrawn as counsel
21 of record in the above-entitled action, and is directed forthwith to send Defendant, at the Northern
22 Nevada Correctional Center All pleadings, papers, Documents and other
23 Tangible Personal Property in and related to the above-entitled action which are in counsel's possession and
24 control. Such mailing or other form of delivery is to be affected at counsel's expense.

25 IT IS SO ORDERED.

26 Dated this 14th day of October, 2019.

J S W

28 DISTRICT COURT JUDGE

1

RECEIVED JAN 29 2020

William J. Martin

(Name)

95529

(I.D. No.)

Northern Nevada Correctional Center
Post Office Box 7000
Carson City, NV 89702

Movant, In Proper Person

FILED

2020 JAN 29 PM 1:54

SUE SEVON
COURT CLERK

BY Deanna DEPUTY

Tenth Judicial District Court
Churchill County

William J. Martin

Plaintiff/Movant

vs.

Charles B. Woodman

Defendant/Respondent

Case No.: 19-10DC-0290

19-10DC-0289

Motion to Compel

COMES NOW, William J. Martin, in proper person and herein
above respectfully moves this Honorable Court for a(n) Motion to compel
order by this court

The instant motion is made and based upon all papers and pleadings on file herein as well
as the following Memorandum of Points and Authorities and attached exhibits (where
applicable).

MEMORANDUM OF POINTS AND AUTHORITIES

On October 14th 2019, this court ordered Charles Woodman to withdraw as counsel and to release all documentation relating to Mr. Martin.

Mr. Martin has tried to reach out to Woodman's office since this order but has been unsuccessful. He has also had representatives call his office and have been treated rudely. His office has hung up on these representatives and calls afterwards have gone ignored.

It is apparent that Mr. Woodman, nor his office, wishes to follow the order by this court.

At this time I am asking this Honorable Court to order/compel Mr. Woodman to relinquish all files, documentation, court proceedings, ETC, pertaining to Mr. Martin, forthwith without further delay.

Respectfully Submitted

Dated this 24 day of
January 2020

William J Martin

CERTIFICATE OF SERVICE

I, William J. Martin certify that on this date I did serve a true and correct copy of the foregoing Motion upon Respondent(s), via U.S. Mail, by placing same in the United States Postal Service (Prison Mail System), postage being fully prepaid, and addressed to:

Tenth Judicial District Court
75 North Maine St. Suite B
Fallon, NV 89406

AND

Charles B. Woodman
Churchill County Public Defender
507 South Main Street
Fallon, NV 89406

Dated this 24 day of January, 2020.

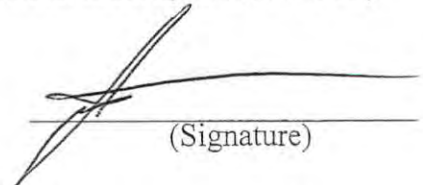
By: William J. Martin

Movant, In Proper Person

AFFIRMATION PURSUANT TO NRS 239B.030

** I certify that the foregoing document DOES NOT contain the social security number of any Persons.

Jan 24 2020
(Date)


(Signature)

EXHIBIT

1

RECEIVED SEP 23 2019

1 William J. Martin
2 45529 N.N.C.C
3 Carson City, NV 89702

FILED

2019 OCT 14 AM 10:32

SUE SEYON
COURT CLERK

4 Tenth Judicial District Court
5 Churchill County

9 William J. Martin

11 Plaintiff,

12 vs.

13 Charles Woodman

14 Public Defender

Defendant

Case No.: 19-10DC-0290
19-10DC-0289

17 ORDER

18 THIS MATTER, having been duly considered by the Court, it is hereby ORDERED that the Defendant's
19 proper person Motion for Withdrawal of Attorney of Record and Transfer of records is hereby GRANTED.

20 Counsel Charles Woodman shall be withdrawn as counsel
21 of record in the above-entitled action, and is directed forthwith to send Defendant, at the Northern
22 Nevada Correctional Center All pleadings, papers, Documents and other
23 Tangible Personal Property in and related to the above-entitled action which are in counsel's possession and
24 control. Such mailing or other form of delivery is to be affected at counsel's expense.

25 IT IS SO ORDERED.

26 Dated this 14th day of October, 2019.

27 S S TV

28 DISTRICT COURT JUDGE

1 Case No. 19-10DC-0290

✓
19-10DC-0289

FILED

2 Dept. I

2020 FEB 21 AM 8:20

SUE SEYON
COURT CLERK

BY Shelly [Signature] DEPUTY

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6 **IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF CHURCHILL**

8 WILLIAM J. MARTIN,

9 Plaintiff,

10 vs.

11 CHARLES B. WOODMAN,

12 Defendant.

ORDER AFTER MOTION TO COMPEL

13 This matter came before the Court on WILLIAM J. MARTIN's (hereinafter "William")
14 Motion to Compel. Through his Motion, William seeks an Order Compelling CHARLES
15 WOODMAN ESQ., (hereinafter "Mr. Woodman") his former counsel, to send all "pleadings,
16 papers, Documents, and other Tangible Personal Property" in and related to this matter to William
17 at the Northern Nevada Correctional Center.

18 On October 14, 2019 this Court issued an Order granting William's Motion for
19 Withdrawal of Attorney of Record and Transfer of Records. In that Order, this Court ordered Mr.
20 Woodman to send all "pleadings, papers, Documents, and other Tangible Personal Property in
21 and related to the above-entitled action which are in counsel's possession and control" to William
22 at the Northern Nevada Correctional Center. In his Motion, William claims that Mr. Woodman
23 has not complied with the Order and sent William's file to William at the Northern Nevada
24 Correctional Center.

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Accordingly, this Court orders that Mr. Woodman shall respond within **30 days** of the date of this Order as to whether he has complied with the October 14, 2019 Order directing him to send William his case file. If Mr. Woodman has not complied with that Order he shall also inform the Court as to why he has not complied with that Order.

GOOD CAUSE APPEARING IT IS HEREBY ORDERED

1. Mr. Charles Woodman, Esq. shall, within 30 days of this Order, inform the Court as to whether he has complied with this Court's October 14, 2019 Order. If not, Mr. Woodman shall also inform the Court as to why he has not complied with the Order.

IT IS SO ORDERED.

Dated this 21st day of February 2020.



THOMAS L. STOCKARD
DISTRICT JUDGE

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ACERTIFICATE OF SERVICE

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that I served the foregoing ORDER AFTER MOTION TO COMPEL on the parties and/or counsel by depositing a copy thereof in the U.S. Mail at Fallon, Nevada, postage prepaid or as indicated below on February 21, 2020.

William J. Martin #95529
NNCC
P.O. Box 7000
Carson City, NV 89702

Charles Woodman, Esq.
Public Defender
548 W. Plumb Lane, Suite B
Reno, NV 89509
Placed in District Court Box

DATED this 21st day of February, 2020.



Court Clerk

Subscribed and Sworn to before me
this 21st day of February, 2020.



Court Clerk

100

RECEIVED MAY 15 2020

FILED

2020 MAY 15 AM 11:54

1 YOUR NAME: William Martin
2 INMATE I.D.# 95524
3 ADDRESS: P.O. Box 7000
4 CITY, STATE, ZIP: Carson City, NV, 89702
5 IN PRO PER

SUE SLVON
COURT CLERK

BY Benning

6 Tenth Judicial District Court

COURT NAME

8 Churchill County

DIVISION, DISTRICT, ETC.

13 YOUR NAME: William Martin
14 Petitioner, Plaintiff,

Case No.: 19-10DC-0290
19-10DC-0289

16 vs.

17 WARDEN'S NAME: Perry Russell
18 Defendant

MOTION REQUESTING EXTENSION OF
TIME BASED ON EXTRAORDINARY
CIRCUMSTANCES

20 TO WHOM IT MAY CONCERN, Petitioner/Plaintiff William Martin,

21 hereby files this request for an extension of time to file and/or respond to any existing deadlines
22 and/or comply with any court imposed deadlines and/or statutory deadlines in the above
23 referenced case or, if no case number is assigned, to any anticipated actions intended to be files
24 in this Court pertaining to the moving party.

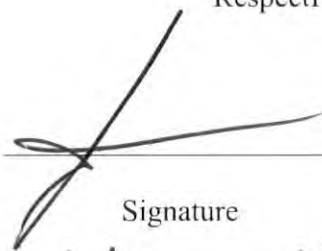
28 MOTION REQUESTING EXTENSION OF TIME BASED ON EXTRAORDINARY CIRCUMSTANCES

1 Petitioner bases this extraordinary request based upon an unprecedented event which is not only
2 disrupting the entire court system in the United States, but interrupting the lives of billions of
3 human beings on a global basis. This event is known as COVID-19 or as the Coronavirus. It is
4 my understanding that many courts nationwide have either closed temporarily or completely
5 until further notice. I have been unable to contact this Court as I am incarcerated with minimal or
6 no contact with the outside world. Our institution is either on a full lockdown or has severely
7 restricted movement within our institution thereby making it virtually impossible for me to
8 meaningfully litigate my existing or intended case.
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11

12 Based on these facts Petitioner therefore respectfully prays the Court grant him/her a continuance
13 until and at such time Petitioner is again allowed meaningful access to the Courts.
14

Respectfully submitted,

15
16 Date: May 11th, 2020



Signature

William Martin

Printed Name

28 MOTION REQUESTING EXTENSION OF TIME BASED ON EXTRAORDINARY CIRCUMSTANCES

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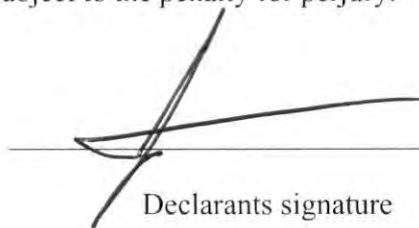
DECLARATION OF SERVICE

On the date as indicated below, I, William Martin, located in the following institution: Northern Nevada Corr. Center, located in the State of: Nevada, handed to a corrections officer a copy of my MOTION REQUESTING EXTENSION OF TIME BASED EXTRAORDINARY CIRCUMSTANCES, postage thereupon fully prepaid, for deposit into the United States Mail. Addressed to the following party or parties:

Tenth Judicial District Court
73 N. Maine St., Ste B
Fallon, NV
89406

The facts as stated above are true and correct subject to the penalty for perjury.

Date: May 11th, 2020


Declarants signature

MOTION REQUESTING EXTENSION OF TIME BASED ON EXTRAORDINARY CIRCUMSTANCES

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 Case No. 19-10DC-0289

2 Dept. No. 1

3 The undersigned hereby affirms that
4 this document does not contain the
5 social security number of any person.

FILED
2020 MAY 18 PM 3:18
SUE SEVON
COURT CLERK
BY  DEPUTY

6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF CHURCHILL

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.


12 WILLIAM JACOB MARTIN,

13 Defendant.

**OPPOSITION TO THE MOTION
FOR EXTENSION OF TIME**

14 Comes now the Churchill County District Attorney's Office and hereby files an
15 opposition to the motion for an extension of time. This opposition is based upon all pleadings
16 and papers herein on file and the attached points and authorities.

17 DATED: This 18th day of May, 2020.

18 
19 _____
20 Lane R. Mills
21 Chief Deputy District Attorney
22
23
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**POINTS AND AUTHORITEIS IN SUPPORT OF OPPOSITION TO THE
MOTION FOR EXTENSION OF TIME**

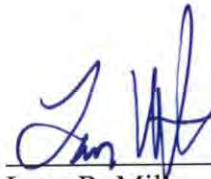
1
2
3 The Defendant in this matter filed a motion for an extension of time in the underlying
4 criminal case in which he styles himself Petitioner and Perry Russell, Warden as the Defendant.
5 The State assumes that the Defendant is contemplating filing a post conviction writ pursuant to
6 chapter 34 of the Nevada Revised Statutes.

7 The motion filed in this case is not cognizable by the court. Pursuant to NRS 34.726 Mr.
8 Martin is required to file his post conviction writ within one year. If he fails to do so he must
9 demonstrate good cause in the writ itself that the delay is not the fault of the prisoner. The
10 statute does not contemplate ancillary filings in other cases for such authority.

11 Even if the Court had authority to consider the motion it should be denied as it fails to
12 include any affidavit of Mr. Martin supporting said assertions. Clearly Mr. Martin has access to
13 the mail system and writing materials necessary to file the instant motion which belies his
14 assertions in the motion.

15 As such the State would request that the Court deny the requested relief in case number
16 19-10DC-0289.

17 DATED: This 18th day of May, 2020.



Lane R. Mills
Chief Deputy District Attorney

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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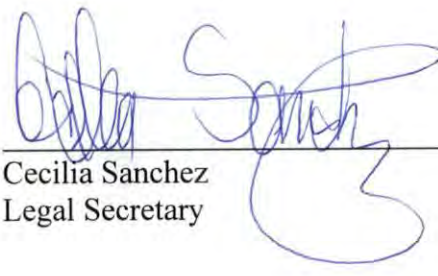
CERTIFICATE OF SERVICE

On the 18 day of May, 2020, I was an employee of the Churchill County District Attorney's Office and that the foregoing **Opposition To The Motion For Extension Of Time**, was served to the following address(s):

Charles B. Woodman
548 West Plumb Lane, Suite B
Reno, NV 89509

Northern Nevada Correctional Center
William Martin Inmate 95529
P.O. Box 7000
Carson City, NV 89702

- By:
- U.S. Mail
 - Certified Mail
 - Return Receipt Requested
 - Hand Delivered
 - Facsimile
 - Email



Cecilia Sanchez
Legal Secretary

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

RECEIVED MAY 20 2020

1 Case No.: 19-10DC-0289

FILED

2020 MAY 21 AM 8:10

SUE SEYON
COURT CLERK

BY *[Signature]* DEPUTY

6 **IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF CHURCHILL**

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 WILLIAM MARTIN,

13 Defendant.

**NOTICE OF COMPLIANCE WITH
COURT ORDER AND REQUEST FOR
REIMBURSEMENT OF COSTS**

15 Charles B. Woodman, of the Law Office of Charles B. Woodman, Esq., hereby files his
16 notice of compliance of the Court Order. All documents, papers, pleadings, discovery, and any
17 other tangible property in the above-entitled case have been mailed to the Defendant.

18 Counsel requests this Court's Order authorizing reimbursement of costs for photocopies
19 and postage Attached hereto as Exhibit 1 is a detailed billing of photocopies and postage costs.

20 Accordingly, Charles B. Woodman, Esq., hereby requests this Court's Order reimbursing
21 costs incurred in the amount of \$30.64

22 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding
23 document does not contain the social security number of any person.

24 DATED this 20 day of May, 2020.

25 *[Signature]*
26 CHARLES B. WOODMAN, ESQ.
27 Law Offices of Charles B. Woodman, Esq.

INDEX OF EXHIBITS

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1. Detailed invoice of Costs incurred by the Law Offices of Charles B. Woodman

1 page

EXHIBIT 1

EXHIBIT 1

Law Offices of Charles B. Woodman
Charles B. Woodman, Esq.
548 W. Plumb Lane, Suite B
Reno, Nevada 89509
Ph. (775) 786-9800

10TH Judicial District Court

Matter: State vs. William Martin 19-10DC-0289

Client	Date	Matter	Staff	Description	Hours	Rate	Total
10TH Judicial District Court	5/20/2020	State vs. William Martin 19-10DC-0289	CBW	<p>pleadings of complete case file including: Order appointing counsel and setting status 02/02/18; Criminal Complaints for 18 CR 00044 01/25/18 and 18 CR 00045 01/26/18; Unconditional Waiver of Preliminary Examination 02/28/19; Two Motions to Produce (18-CR-00044 & 18-CR-00045) 01/04/19; 19; Notice of Entry of Order: Order to Produce (18-CR-00044 & 18-CR-00045) 01/04/19; Order of Recusal (19-10DC-00289/290) 03/06/19; Filed Information 03/06/19; Filed Guilty Plea Memo 04/18/19; Motion to Produce 03/11/19; Judgment of Conviction 06/25/19, Discovery Bates 00001-00053;</p> <p>114 pages</p>		115 @ \$0.20	\$23.00
				Subtotal: CBW			\$23.00
10TH Judicial District Court	5/20/2020	State vs. William Martin 19-10DC-0289	CBW	postage fee for service of case file		1 @ \$7.64	\$7.64
				Amount Due	0.00		\$30.64

1 Case No.: 19-10DC-0289

FILED

2 2020 MAY 21 PM 1:02

3 SUE SEYON
COURT CLERK

4 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

5 IN AND FOR THE COUNTY OF CHURCHILL

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 WILLIAM MARTIN,

10 Defendant.

11 **ORDER AUTHORIZING
REIMBURSEMENT OF COSTS**

12
13 The Law Offices of Charles B. Woodman, filed a Notice of Compliance with Court Order
14 and Request for Reimbursement of Costs, on the 21st day of May, 2020.

15 Having reviewed the request and with good cause appearing, it is hereby ordered as follows:

16
17 1. Charles B. Woodman requested authorization for reimbursement of costs totaling
18 \$30.64. He is awarded reimbursement of costs in the sum of \$ 30.64.

19 IT IS SO ORDERED.

20 DATED: This 21st day of May, 2020.

21 
22 _____
23 DISTRICT COURT JUDGE

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM JACOB MARTIN,)
) APPELLANT,)
vs.)
THE STATE OF NEVADA,)
) RESPONDENT.)
_____)

SUPREME COURT NO. 87437
DC CASE NO. 19-10DC-0289

**RECORD ON APPEAL
VOLUME
2**

ATTORNEY FOR APPELLANT
WILLIAM JACOB MARTIN, PRO PER
NORTHERN NV CORRECTIONAL CENTER
P.O. BOX 7000
CARSON CITY, NV 89702

ATTORNEY FOR RESPONDENT
LANE MILLS, ESQ.
CHIEF DEPUTY DISTRICT ATTORNEY
165 N. ADA STREET
FALLON, NV 89406

#19-10DC-0289 - STATE OF NEVADA vs. WILLIAM JACOB MARTIN
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RECEIVED JAN 06 2022

IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK

FILED

2022 JAN -6 AM 11:23

WILLIAM JACOB MARTIN,
Appellant,
vs.
PERRY RUSSELL, WARDEN,
Respondent.

Supreme Court No. 83315
District Court Case No. 19-10 DC-0289

SUE SEVON
COURT CLERK
BY Shirley Norton DEPUTY

NOTICE OF TRANSFER TO COURT OF APPEALS

Pursuant to NRAP 17(b), the Supreme Court has decided to transfer this matter to the Court of Appeals. Accordingly, any filings in this matter from this date forward shall be entitled "In the Court of Appeals of the State of Nevada." NRAP 17(e).

DATE: January 04, 2022

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch
Deputy Clerk

Notification List

Electronic

Churchill County District Attorney/Fallon \ Arthur E. Mallory, District Attorney

Paper

Hon. Jim C. Shirley, District Judge

William Jacob Martin

Sue Sevon, Court Administrator, Churchill County Clerk

22-00203

00102

RECEIVED MAR 01 2022

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM JACOB MARTIN,
Appellant,
vs.
PERRY RUSSELL, WARDEN,
Respondent.

FILED
2022 MAR -1 PM 12:17
Supreme Court No. 83315
District Court Case No. 19-10DC-0289
SUE SEVON
COURT CLERK
BY: *Jule C. Benninghoff*

REMITTITUR

TO: Sue Sevon, Court Administrator, Churchill County Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: February 28, 2022

Elizabeth A. Brown, Clerk of Court

By: Sandy Young
Deputy Clerk

cc (without enclosures):
Hon. Jim C. Shirley, District Judge
Churchill County District Attorney/Fallon \ Arthur E. Mallory, District Attorney
William Jacob Martin

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on March 1, 2022.

Sue Sevon

District Court Clerk
Jule C. Benninghoff

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM JACOB MARTIN,
Appellant,
vs.
PERRY RUSSELL, WARDEN,
Respondent.

Supreme Court No. 83315
District Court Case No. 19-10DC-0289

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

“ORDER the judgment of the district court AFFIRMED.”

Judgment, as quoted above, entered this 3rd day of February, 2022.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this February 28, 2022.

Elizabeth A. Brown, Supreme Court Clerk

By: Sandy Young
Deputy Clerk

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM JACOB MARTIN,
Appellant,
vs.
PERRY RUSSELL, WARDEN,
Respondent.

No. 83315

FILED

FEB 03 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Joseph
DEPUTY CLERK

ORDER OF AFFIRMANCE

William Jacob Martin appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on March 16, 2021. Tenth Judicial District Court, Churchill County; Jim C. Shirley, Judge.

Martin contends the district court erred by denying his petition as procedurally barred without conducting an evidentiary hearing. Martin filed his petition more than one year after entry of the judgment of conviction on June 25, 2019. Thus, Martin's petition was untimely filed. *See* NRS 34.726(1). Martin's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice, *see id.*, or that he was actually innocent such that it would result in a fundamental miscarriage of justice were his claims not decided on the merits, *see Berry v. State*, 131 Nev. 957, 966, 363 P.3d 1148, 1154 (2015). To warrant an evidentiary hearing on his claims to overcome the procedural time bar, the claims had to be supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief. *See id.* at 967, 363 P.3d at 1155. We review the denial of an evidentiary hearing for an abuse of discretion. *Id.* at 969, 363 P.3d at 1156.

Martin first claimed he had cause for the delay because the district court never ruled on his motion requesting extension of time, which he filed May 15, 2020. However, Nevada does not allow tolling of the one-year filing period. *Brown v. McDaniel*, 130 Nev. 565, 576, 331 P.3d 867, 874 (2014). And “[a]pplication of the statutory procedural default rules to post-conviction habeas petitions is mandatory.” *State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). Accordingly, we conclude Martin failed to demonstrate he was entitled to an evidentiary hearing on this good-cause claim.

Martin next suggested he had cause for the delay because he contracted COVID-19. Martin’s bare claim did not indicate whether he became ill, the dates of any illness, or that any such illness constituted an impediment external to the defense. Accordingly, we conclude Martin failed to demonstrate he was entitled to an evidentiary hearing on this good-cause claim. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003) (“[A]n adequate allegation of good cause would sufficiently explain why a petition was filed beyond the statutory time period.”); *cf. Phelps v. Dir., Nev. Dep’t of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (providing “limited intelligence,” illiteracy, or lack of an inmate law clerk do not excuse procedural bars), *superseded by statute on other grounds as stated in State v. Haberstroh*, 119 Nev. 173, 181, 69 P.3d 676, 681 (2003).

Martin next claimed he had cause for the delay because his prison was “put on quarantine” in March 2020 due to the COVID-19 pandemic and the law library was temporarily closed. He claimed this resulted in inadequate access to legal research materials and law clerk inmates. Martin’s bare claim did not specify how long any restrictions lasted or what materials he needed but was unable to access due to the

restrictions. Further, the State included with its motion to dismiss Martin's petition evidence that Martin had requested case law and/or legal materials from the law library at least once during the period between the alleged imposition of limitations and the one-year deadline for timely filing his petition, and Martin did not dispute this in his opposition to the State's motion to dismiss.¹ Finally, we note Martin filed at least one pleading in this case during that time. In light of these facts, we conclude Martin failed to demonstrate he was entitled to an evidentiary hearing on this good-cause claim.

Finally, Martin claimed he could overcome the procedural time bar because he was actually innocent. Martin claimed that his history of mental illness combined with his methamphetamine consumption rendered him legally insane at the time he committed the crimes in this case. Martin's bare claim did not allege that "he suffered from delusions such that he did not (1) know or understand the nature and capacity of his act; or (2) appreciate that his or her conduct was wrong." *Kassa v. State*, 137 Nev., Adv. Op. 16, 485 P.3d 750, 754 (2021) (internal quotation marks and punctuation omitted). Moreover, Martin's claim was one of legal, not factual, innocence. *See Bousley v. United States*, 523 U.S. 614, 615 (1998). ("Actual innocence means factual innocence, not mere legal insufficiency.").

¹Martin contends the district court abused its discretion by failing to consider his timely filed opposition to the State's motion to dismiss. Assuming, without deciding, that the district court abused its discretion by failing to consider Martin's pleading, Martin did not demonstrate the error affected his substantial rights. Martin's pleading simply repeated arguments made in his petition. Accordingly, we conclude he is not entitled to relief on this claim. *See* NRS 178.598 ("Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.").

Accordingly, we conclude Martin failed to demonstrate he was entitled to an evidentiary hearing on this gateway actual innocence claim.

Martin has not demonstrated the district court abused its discretion by denying him an evidentiary hearing. Further, for the reasons discussed above, we conclude the district court did not err by denying Martin's petition as procedurally time-barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jim C. Shirley, District Judge
William Jacob Martin
Attorney General/Carson City
Churchill County District Attorney/Fallon
Churchill County Clerk

FILED

2023 JUN -5 PM 2:03

TIFFANY JOSEPHS
COURT CLERK

BY *J. Benninghoff*

1 William Martin # 95529
2 Lovelock Correctional Center
3 1200 Prison Road
4 Lovelock NV 89419
5 Defendant in pro se

6 The undersigned hereby affirms that this document does
7 NOT contain the social security number of any person

8 In The Tenth Judicial District Court Of The State Of Nevada,
9 In And For The County Of Churchill

11	The State of Nevada,	Case Nos. 19-10DC-0290; 19-10DC- 0289
12	Plaintiff	Dept. No. 1
13	v.	
14	William Jacob Martin,	Motion To Correct Illegal Sentence
15	Defendant.	

RECEIVED JUN 05 2023

16
17 Comes Now Defendant William Martin, in pro se,
18 and hereby gives his motion to correct illegal sentence.
19 This motion is made and based on Edwards v.
20 State,¹ all papers and pleadings on file, including the
21 memorandum in support of motion to correct illegal
22 sentence, also filed today and hereby incorporated by
23 reference as if fully stated herein, and the following
24 points and authorities.

25
26 *///*

27
28 FN 1) 112 Nev. 704 (1996)

Points and Authorities

I. Statement of Facts

1. On April 18, 2019, Defendant entered a guilty plea to the crime of burglary, a Category B Felony in Case No. 19-10DC-0290. On the same day, Defendant entered a guilty plea to the same crime in Case No. 19-10DC-0289.

2. This Court issued two judgments of conviction on June 25, 2019. In each case, the Court sentenced Defendant to prison for thirty-six (36) months to one-hundred and twenty (120) months with parole eligibility after thirty-six months. The two sentences were run consecutively — and also consecutive to two other cases: 18-10DC-0049 in the Tenth Judicial District Court; and CR18-0761 in the Second Judicial District Court.

3. Restitution was also ordered in 19-10DC-0289 in the sum of \$3,056.35, plus various administrative fees totaling \$28. In 19-10DC-0290, restitution was ordered in the sum of \$60 to Nevada Division of Parole and Probation, plus various administrative fees totaling \$28.

Procedural Fault and Time Limitation Do Not A y To Motion

to Correct Illegal Sentence and Jurisdiction Challenges.

1 A motion to correct an illegal sentence is an appropriate vehicle for raising the claim that
2 a sentence is facially illegal at any time. Edward v. State, 112 Nev.704, 708 (1996). Under
3 Nevada case-law it is well established that there are some post-conviction remedies not subject to
4 Nevada’s habeas time constraints and procedural defaults. The very nature of the remedy sought
5 in this Motion for relief from a sentence that is facially illegal is incidental to the proceeding in
6 the trial court and is separate from habeas corpus relief. Id at 708. See also Kanally v. Del Pappa,
7 126 Fed. Appx. 361 (2005).

8 As Defined by NRS 176.555:

9 The district court may correct an illegal sentence at any time, we have recognized that the
10 inherent power of the district court to correct an illegal sentence... must necessarily
11 include the power to entertain a motion to correct an illegal sentence.

12 Also, Nevada’s Appellate Courts have recognized only two types of post-conviction challenges
13 to a conviction or sentence, i.e., motions to modify a sentence based on a mistaken assumption
14 about a defendant’s criminal record and motion to correct a facially illegal sentence and,
15 therefore, not required to be brought in a habeas petition. Pangallo v. State, 112 Nev. 1533, 1534
16 (1996). The Nevada Supreme Court’s discussion of motions to correct an illegal sentence (and
17 like appeals) in Edward emphasizes that these motions are free from the various constraints and
18 time restricting access to other appeals. In particular these motions are exempted from the
19 limitation on habeas petition and “motions to correct an illegal sentence are not subject to the
20 time bars and procedural hurdles limiting other types of appeals.” Collier v. Bayer, 408 F.3d
21 1279, 1287 (9th Cir. 2005).

22 In addition, procedural defaults and time constraints do not apply to jurisdiction
23 challenges. As explained in Kelly v. US, 29 F.3d 1107, 1113-1114 (7th Cir. 1994) “When
24 challenging a jurisdiction error the defendant need not show cause and prejudice...” quoting an
25 unpublished opinion in US v. Broadwell, LEXIS 6366 (9th Cir. 1992). The court’s jurisdiction
26 cannot be waived. See Freytag v. Commissioner of Int. Revenue, 501 US 868 (1991) (discussing
27 the “non-waivability” of lack of subject-matter jurisdiction). Arguments attacking a court’s
28 subject-matter jurisdiction can neither be waived nor forfeited. Class v. US, 138 S. Ct. 798, 200

1 L.Ed. 2d 37 (2018). As noted, the court has an independent duty to assure itself that its
2 jurisdiction is properly had, and as a result parties can raise jurisdictional defect at any time.
3 Kelly at 113, quoting Landreth v. Malik, 127 Nev. 175, 179 (2011); Barber v. State, 131
4 Nev.1065, 1069 (2015).

5 In this Motion, Defendant addresses the facially illegality of his sentence and will
6 demonstrate his sentencing is “one ‘at variance’ with the controlling sentence statute; or illegal in
7 the sense that the court goes beyond its authority by acting/imposing without jurisdiction.”
8 Edward at 708. Also, Defendant is challenging the validity of the NRS scheme and the district
9 court’s lack of subject-matter jurisdiction, based on this scheme, which relates to his illegal
10 sentencing and has reserved his challenges to his convictions in his State Habeas, already filed in
11 the State district court. The Nevada and Federal AEDPA 1 year limitation does not apply to this
12 motion because the limitation is also “tolled” with the filing of a timely State Habeas.
13 Furthermore, Defendant shall be permitted to file a pro se motion to correct an illegal sentence in
14 the district court despite the fact he is represented by counsel in habeas proceeding pending in
15 the district court because a motion to correct an illegal sentence is a separate action from a post-
16 conviction petition for Habeas. Wirth v. State, 132 Nev.1047 (2016).

17 Even though the jurisdiction of the court in this case’s trial and sentencing may be
18 lacking, the court should not exclude itself from hearing and adjudicating this Motion to Correct
19 Illegal Sentence due to the justiciable controversy between the Defendant and the State. The
20 authority of the court to adjudicate this Motion is independent of the NRS scheme and is derived
21 from the Nevada Constitution; Article 6 Judicial Power and not statutory in nature. It is
22 incumbent and a responsibility of the court to determine and resolve this controversy by taking
23 into account these merits. Also, within the four corners of this Motion and Supporting
24 Memorandum, Defendant does not challenge the validity of his conviction herein but rather the
25 legality of the imposed sentence. *

Grounds For Relief

1 III.

2 1. This Defendant is held against his will, kidnapped, and falsely imprisoned; which is
3 illegal and unconstitutional and he seeks remedies in this Motion to Correct Illegal Sentence by
4 vacating his sentencings. Not only this, the illegal sentencings have caused irreparable harms
5 toward this Defendant that have manifested up to the constitutional dimension, affecting his
6 procedural and substantive Due Process rights, and the right to be informed of the nature and
7 cause of the accusation as guaranteed by the 5th, 6th, and 14th Amendments to the U.S.
8 Constitution. The Defendant has legal standing to challenge his illegal sentences and will
9 illustrate that the illegal sentencings have caused the Defendant actual injuries, and that the
10 interest sought to be protected and enforced is within the zone regulated and guaranteed by the
11 U. S. and Nevada Constitution. The Defendant will address the facial illegality of his sentences
12 by showing that his sentencings are "one at variance with the controlling sentencing statute" or
13 "illegal in the sense that the court goes beyond its authority by acting without jurisdiction."
14 Edward v. State, 112 Nev. 704, 708 (1996). This court must grant this Motion and Memorandum
15 (containing the supporting Grounds) below and the Defendant moves that this action and cause
16 be granted for his immediate release, in the interest of Liberty and Justice.

17 Each of Defendant's sentencing is at variance with the controlling statutes and the
18 Nevada Constitution, in that it is based on an invalid statutory scheme, and/or non-existent
19 statutes. By definition, Variance is a difference or disparity between two statements or
20 documents that ought to agree; especially in criminal procedure. Black's Law Dictionary. In this
21 case, the controlling sentencing statutes are either non-existent, based on repealed statutes, or
22 invalid and void statutes and there are no valid statutes for foundational authority to make
23 comparison to. Defendant is challenging his sentencing!

1 2. Not only is the individual and specific penalty statute for each crime and sentencing,
2 supra, illegal and voided, the general statutory authority of the courts to enforce such penalty is
3 also illegal and voided. As cited in numerous case-laws that challenge the constitutionality of
4 their sentencing and the court's subject-matter jurisdiction, NRS 171.010 [See Exhibit 1] is
5 implemented as the authoritative source of statute that the courts have jurisdiction to sentence
6 and punish defendants. [See Ground One]. However, NRS 171.010 is fundamentally defective.
7 Not to conflate or confuse the NRS scheme as "merely the codified version" with the actual
8 Statutes of Nevada, which is the LAW, the NRS is only an enigmatic codified resemblance to the
9 source of statutory authority. The signpost that points to a non-existent destination becomes null,
10 voided and futile. On close examination of NRS 171.010, the Statutes of Nevada that correspond
11 to this imitation NRS statute does NOT exist because it has been repealed. [See Ground One].
12 The Historical Section of NRS 171.010 points to the authority of Statutes of Nevada that
13 originated in [1912 § 6908 and 1929 NCL §10705]. [See Exhibits 3 & 4]. But contrary to the
14 spurious prima facie evidence [See Ground Two], this is rebutted with the Statutes of Nevada
15 1957, Chapter 2 – 'Senate Bill 2', section 3, to wit: "all laws and statutes of the State of Nevada
16 of a general, public and permanent nature enacted prior to January 21, 1957 HEREBY ARE
17 REPEALED." [See Exhibit 5]. Since then, no new Statutes of Nevada has been enacted by the
18 Nevada Legislators to sustain the statutory foundation or authority of NRS 171.010.
19 Consequently, NRS 171.010 is invalid and void and the courts lacked statutory authority to
20 impose sentencing and punishment in a category, like criminal cases. Also, this imitation statute
21 lacks the mandatory enactment clause, on its face, as detailed in Ground Five. Chase v. Rogers,
22 10 Nev. 250 (1875). NRS 171.010 is facially illegal, unconstitutional and, has prejudiced
23 Defendant by sentencing him without valid jurisdiction.

24 3. Furthermore, Defendant's sentencing is illegal "in the sense" that the court goes
25 beyond its authority by acting without jurisdiction. Edward at 708. By definition, jurisdiction is a
26 court's power or authority to hear and decide a particular class of cases. Black's Law Dictionary.
27 This jurisdiction is derived only by valid law. Law is a legal system of rules that guides, directs,
28 or limits the conduct or action of something or someone, which is declared by some authority

1 that has a legal relationship between the Government and the People [See Ground Six].

2 Jurisdiction of a court is derived from law that either is constitutional or statutory and cannot be
3 conferred or waived by consent. "The term jurisdiction means the court's statutory or
4 constitutional power to adjudicate the case." U.S. v. Cotton, 535 US 625, 630 (2002).

5 The statutory jurisdiction of this court, or lack of it, has already been discussed in the
6 above subsection 2; implicating the fraudulent NRS 171.010, which is illegal, unconstitutional,
7 and void. The Defendant's individual sentencing statutes are also illegal, unconstitutional, and
8 voided, supra. The constitutional jurisdiction or judicial power is derived directly from Article 6,
9 section 6 (1) of the Nevada Constitution [See Ground Six]. Landreth v. Malik, 127 Nev. 175, 183
10 (2011). Judicial power is the authority to "enforce any valid judgment." Galloway v. Truesdal,
11 83 Nev. 13, 20 (1967); and is granted by the Nevada Constitution to hear and determine
12 "justiciable controversy" NV AG Del Papa v. Steffen, 112 Nev. 369, 377 (1996). Judicial power
13 to be valid, has to be based on valid statutes to render a finality or valid judgement. However, the
14 NRS scheme is illegal, unconstitutional and, void, which compromises the court's judicial power
15 in criminal trial and sentencing courts [See Ground Four]. "A court may exercise judicial power
16 only when it has a valid statutory scheme and subject-matter jurisdiction." Rhode Island v.
17 Massachusetts, 37 US 657, 718 (1838). Else, it does not have cognizance in a category of cases
18 like criminal proceedings. Without it, if the courts proceed, then it is an abuse of power. Power
19 that is oppressive and tyrannical.

20 In criminal jurisdiction, in terms of authority of a court, is of two main types: first, of
21 the subject-matter; and second, the persons whose rights are to be passed upon, as explained by
22 Judge Thomas Cooley [See Ground Six]. Both types of jurisdictions are required in criminal
23 matters. 21 American Jurisprudence, "Criminal Law." §338, p.588. Subject-matter jurisdiction is
24 defined as jurisdiction of the nature of the case and of the relief sought; or the extent to which a
25 court can rule in the conduct of persons or the status of things. Black's Law Dict. Jurisdiction of
26 the subject-matter involves the actual thing involved in the controversy. In criminal proceeding
27 the thing that forms the subject-matter is the crime or public offense that is allegedly committed.
28 Subject-matter in its broadest sense means the cause; the object; the thing in dispute. Stilwel v.

1 Markham, 10 P.2d 15, 16 (Kan. 1932). Subject matter jurisdiction involves more than having the
2 right offense for the right court. Even if the court has jurisdiction over the type, class, or grade of
3 crime committed, it will still lack subject matter jurisdiction if the law scheme which the crime is
4 based upon is invalid, void, unconstitutional, or non-existent. [See Ground Four and Six].
5 Jurisdiction over the subject matter of action is essential to the power of the court to act, and is
6 conferred only by the constitution or by valid statute. Brown v. State, 37 N.E. 2d 73, 77 (Ind.
7 1941). The court must be authorized to hear a crime, and have a valid law that defines a crime.
8 Thus, the crux of subject matter jurisdiction is always the crime or offense. If a law is invalid
9 there is no crime, if there is no crime, there is no subject matter jurisdiction. "A criminal statute
10 cannot rest upon any uncertain foundation. The crime, and the elements constituting it, must be
11 so clearly expressed that the ordinary person can intelligently choose, in advance, what course it
12 is lawful for him to pursue." Connally v. Gen. Const. Co., 269 US 385, 393 (1926). But in order
13 for defendants to be given fair-notice of what is lawful, the actual LAW has to be given to
14 defendants in plain language. Basic concept of fairness and due process require that one who is
15 charged with a wrongdoing be put on notice as to what conduct constitutes the wrong [by LAW].
16 Whitney v. State, 105 Nev. 810, 813 (1989). Courts cannot sentence defendants who did not
17 commit crime. If a criminal statute is unconstitutional, then the court lacks subject matter
18 jurisdiction and cannot proceed to try the crime. 22 Corpus Juris Secundum, "Criminal Law,"
19 §157, p.189; citing People v. Katrinak, 185 Cal. Rptr. 869 (1982). Failure to appraise the
20 defendant of the nature and cause of the accusation can affect the court's jurisdiction; especially
21 when a defendant is put in jeopardy of Life, Liberty, and Property under the U.S. Constitution
22 and the Nevada's Constitutional equivalent. In essence, without valid laws, there is no valid
23 subject-matter jurisdiction and any decision rendered is void. Hooker v. Boles, 346 Fed. 2d 285,
24 286 (1965). 21 Corpus Juris Secundum, "Courts" §18, p.25. [See Ground Six]. The test of
25 jurisdiction is the right to decide, not right decision. Judgements of courts, which at the time the
26 judgements were rendered had no jurisdiction are absolutely void and may be attacked. As
27 explained in Ex Parte Davis, 33 Nev. 309, 313-314 (1910) "The court derives its jurisdiction
28 from the law, and its jurisdiction extends to such matter as the law declares criminal, and none

1 other; and when it undertakes to imprison for an offense to which no criminality is attached, it
2 acts beyond its jurisdiction... in such a case would be in excess of the court's power and void."
3 When jurisdiction is lacking the court can do nothing except dismiss the cause of action. Garcia
4 v. Dial, 596 S.W. 2d 524, 528 (Tex. Cr. App. 1980). If excessive exercise has reference to want
5 of power over the subject-matter, the results are void when challenged. When the error is
6 jurisdictional, the remedy of correcting or vacating the sentence is available where it contains "a
7 fundamental defect which inherently results in a complete miscarriage of justice or includes an
8 omission inconsistent with the rudimentary demands of fair procedure." US v. Smith, U.S. Dist.
9 LEXIS 34022 (2021). This claim may be brought where it implicates the very power of the state
10 to prosecute the defendant. Class v. US, 138 S. Ct. 798, 803 (2018).

11 4. NRS 220.170 and 220.120 are invalid and cannot be used as prima facie evidence
12 of law for the NRS scheme and has been refuted and at variance against the controlling statutes.
13 [See Ground Two]. It is in direct opposition to the Nevada Constitution. NRS 220.170 and
14 220.120 lack statutory authority foundations and have been repealed by "Senate Bill 2" - Statutes
15 of Nevada. 1957. [See Ground Two]. To explain away the existence of the NRS scheme by
16 justification of NRS 220.170, as sufficient prima facie evidence for Nevada LAW, is voided,
17 illegal, and unconstitutional. The NRS imitation statutes are vague and cryptic in its statutory
18 authority because the historical sections are written in codes that are difficult to decipher and its
19 translation is written in an extrinsic set of books/source elsewhere. In the Preface of the
20 Legislative Counsel Bureau's "Printed from the Official Nevada Law Library from the Source"
21 (Trademark) Copyrighted, is a fifteen pages "Classification and Arrangement" tutorial course in
22 the translation of the historical section of each NRS statute; separate from the NRS volumes.
23 [See Exhibit 19]. "And as a statute...so vague that men of common intelligence must necessarily
24 guess at its meaning and differ as to its application violates the first essential of Due Process of
25 law." Connally v. Gen. Const. Co., 269 US 385, 391 (1926). NRS 220.170 lacks authority that it
26 is evidence of anything and does not have constitutional authority. This constitutes a break in the
27 "chain of authority" between the NRS scheme and the legislative Statutes of Nevada. No where
28 in the constitution does it mention about the NRS scheme or gives the Legislative Branch, under

1 Article 4, the authority to conduct any or ALL legal action based on the NRS scheme. The
2 maxim “expression unis est exclusion alterius” (the expression of one thing is the exclusion of
3 another) [is] long adhered to in this state: Ramsay v. City of North Las Vegas, 133 Nev. 96
4 (2017). The constitution prescribes all legal cause and action to be based on the Statutes of
5 Nevada, and nothing else.

6 5. One question is here involved, to wit: Is the NRS statutory scheme the LAW or not? The
7 State, for the last 65 years, has persistently held that the NRS scheme is the LAW of Nevada. All
8 legal causes and actions are conducted under the NRS scheme. The State continues to
9 misrepresent the NRS scheme as the LAW. This is fraudulent in its most deceptive form. For
10 anything to maintain its legitimacy and validity, it must have transparency and accountability.
11 From its inception, the Legislative intent for the NRS scheme was to supersede (to annul, make
12 void, or repeal by taking the place of) prior Statutes of Nevada actual LAWS, in 1957’s 48th
13 Session, with the passing of “Senate Bill 2” – Statutes of Nevada 1957 and Assembly Concurrent
14 Resolution No.1; which were both nefarious. [See Exhibit 5 & 10]. It was not intended to be
15 something else by the Legislators. [See Ground Three]. Fast forward to present day, it is self-
16 evident that the State continues to masquerade the NRS scheme as the LAW of the State of
17 Nevada; since all legal cause and action is based on the NRS scheme in the name of
18 convenience, which has no prima facie evidence because of a voided NRS 220.170 statute
19 instead of the actual laws-Statues of Nevada. Despite this, the NRS scheme is not the LAW. [See
20 Ground Three]. The Nevada Supreme Court and Court of Appeals have expressed this opinion in
21 their case-laws. In numerous cases, i.e. Taylor v. State, 472 P.3d 195 (Nev. 2020) [See Exhibit
22 11] and many Court of Appeals cases, and by authority of NRAP Rule 36, section §2 and 3, this
23 Defendant presents a judicial question and moves the Court to strike down “Senate Bill 2”,
24 provision 1, as voided, illegal, and unconstitutional and not consistent with the interpretation of
25 what is LAW according to the Nevada Supreme Court and the Nevada Constitution. [See Ground
26 Three].

27 6. This counterfeit-machine and broken-behemoth that the State calls the NRS scheme
28 continues to spew out its deception and is Void Ab Initio. [See Ground Four]. It has no genesis

1 authority. As a matter of fact, the truth is that this corrupted machinery has violated multiple
2 provisions of the Constitution and legislative rules that have negated its passage. The NRS
3 scheme before us is plainly and palpably invalid and implicates the court's jurisdiction. To
4 implicate is "the act of showing involvement in something that is not directly stated but is
5 inferable, an inference drawn from something said or observed." Black's Law Dict. Not only
6 does it implicate, it clearly demonstrates, as provided by the evidences, and directly confirms
7 that it is fundamentally defective to the core of the court's jurisdiction. The Nevada Supreme
8 Court's opinion is diametrically opposed to the very core creation of the NRS scheme in "Senate
9 Bill 2" provision 1, Statutes of Nevada 1957, as discussed supra, in Section 5. First, the
10 commission that was enacted in 1951 by the legislation violated the Separation of Powers, and
11 legislation ceded its legislative power to a private corporation veiled in the shadowy Legislative
12 Counsel Bureau, a non-legislative entity composed of non-government bodies. The passage of
13 "Senate Bill 2" was already plagued with issues and then legislation in the same year in 1957,
14 tried to cure the illegalities with Senate Concurrent Resolution No.1 [See Exhibit 10]; which was
15 of no legal force. [See Ground Four]. In 1991, the Nevada Supreme Court was asked a certified
16 question from the U.S. Court of Appeals – Ninth Circuit: whether an Assembly Concurrent
17 Resolution and other similar concurrent resolutions had the force and effect of Nevada LAW and
18 the court answered in the negative. NHP Assoc. v. State, 107 Nev. 547, 549 (1991). In addition,
19 the legislation failed to promulgate "Senate Bill 2" on three separate days as mandated by Article
20 4 §17 of the Nevada Constitution and supported in a publishing entitled Nevada Legal Research
21 Guide, §2.4-Bills: "At a later date, the bill is read a third time..." [See Exhibit 38]. The
22 legislation surreptitiously omitted the entire NRS volumes from "Senate Bill 2" to avoid
23 indicating to its reader where the NRS scheme was illegally enacted, in 1957. Else, why does all
24 NRS Statutes fail to indicate its inception in 1957 in its Historical section. The passage of Senate
25 Bill 2 also violated Article 4 §17 of the Nevada Constitution to wit: "each Act shall embrace
26 only one subject." [See Ground Four, section 7]. Also, the NRS scheme is copyrighted and has a
27 private proprietor in the private domain and has no place in the public domain, (i.e. criminal
28 proceedings). It's similar to claiming the Bible is copyrighted. Matters of private policy and

1 nature have no place or sovereignty in the public realm that impose upon the public people of the
2 State of Nevada. It is not prescribed in the constitution. It is nonbinding and has no legal force.
3 [See Ground Four, section 8 and 9] Incidentally, the proceeds of the sale of the publication of the
4 NRS scheme mysteriously dissolve behind the veil of complexities of the Legislative General
5 Fund. See NRS Chapter 218F.

6 7. The Enactment Clause as mandated by Article 4, section 23 of the Nevada Constitution
7 has been challenged by numerous cases before and is not a matter of first impression challenge
8 and this Defendant is aware of the issue before the courts. However, Defendant is presenting this
9 Ground to preserve it for possible Federal courts and to support his Motion. On its face, all the
10 NRS statutes do not have the Enactment Clause to give Fair Notice of its statutory and
11 constitutional authority, as mandated by the Nevada Constitution and the Supreme Court. [See
12 Ground Five]. On three (3) occasions, the Nevada Supreme Court has upheld the commands of
13 our Nevada Constitution; in 1875 with Chase v. Rogers, 10 Nev.120; in 1942 with Caine v.
14 Robbins, 131 P.2d 516; and in 1991 with NHP Assoc. v. State, 107 Nev. 547. Article 4
15 prescribes certain forms, styles, modes and procedures that must be followed in order for a valid
16 statute to exist. It is fundamental that nothing can be legal statute that is not enacted by the
17 Legislation and prescribed in the Constitution. The purpose and function of an enacting clause :
18 is to show that the statute is one enacted by the legislative body which has been given the law
19 making authority under the constitution; that is to give it permanence, uniformity, and certainty
20 to identify the act of legislation as of general assembly and to afford evidence of its legislative
21 statutory nature; thus preventing inadvertence, possibly mistake and fraud. State v. Patterson, 4
22 S. E. 350 (1887). It is a “certified seal” from the legislation. It is absolutely mandatory that they
23 should have qualified the NRS scheme with the Enactment Clause as prescribed by the
24 Paramount Law of this State – the Nevada Constitution, if it is truly a Governmental product
25 [See Ground Four]. To fulfill the purpose of identifying the lawmaking authority of a statute, it
26 has been repeatedly declared by the courts of this land that an enacting clause is to appear on the
27 face of every law which the people are expected to follow and obey. “The failure of a law to
28 display on its face an enacting clause deprives it of essential legality, and renders a statute which

1 omits such clause "a nullity and of no force of law." Joiner v. State, 155 S. E. 2d 8,10 (Ga.
2 1967). The NRS scheme is incongruous with the mandate and case-laws. The enacting clause
3 goes to its substance, and is not merely procedural. Morgan v. Murray, 328 P.2d 644, 654 (Mont.
4 1958). The enacting clause must be intrinsic to the law, and not "extrinsic" to it, that is, it cannot
5 be hidden away in other volumes, records or books. To be on its face means to be in the same
6 plain view. In Chase v. Rogers "It is...to the legislature, requiring all laws, to be binding upon
7 them, shall, upon their face, express the authority by which they were enacted; and, since this act
8 comes to us without such authority, appearing upon its face, it is not LAW." It is fraud or a
9 knowing misrepresentation or concealment of the material fact to induce the People of the State
10 of Nevada to abide by the NRS scheme as if it was the actual LAWS and operated by the State.
11 This violates Defendant's right to Due Process as guaranteed by the 5th, 6th, and 14th
12 Amendments to the U.S. Constitution.

13 Also, the Nevada constitutional mandates must be upheld. [See Ground Seven] It is the
14 paramount LAW of this State. It is a general procedural rule that statutes cannot override the
15 constitution or rewrite it. The constitution shall therefore prevail. The state judiciary is
16 subservient to the state constitution. Ramsay v. City of North Las Vegas, 133 Nev. 96 (2017).
17 Under constitutional checks and balances principle, courts are obligated to enforce the limitation
18 that the constitution impose upon the legislation [See Ground Seven]. The Nevada constitution is
19 the supreme law of the state, which controls over any conflicting statutory provisions. M Resort
20 v. State, 127 Nev. 301, 309 (2011). No state legislators nor executive nor judicial officers can
21 war against the constitution without violating his or her undertaking to support it. Cooper v.
22 Aaron, 358 US 1 (1958). "A statute cannot amend the constitution." Seminole Tribe of Florida
23 v. Florida, 517 US 44 (1996). To do that, which is prescribed in any other manner than
24 prescribed, or to do that which is prohibited, is repugnant to the supreme and permanent law and,
25 invalid. Porch v. Patterson, 39 Nev. 251, 269 (1916). "It is undoubtedly the duty of the courts to
26 uphold statutes passed by the legislation, unless their unconstitutionality clearly appears, in
27 which case, it is equally their duty to declare them null." King v. The Board of Regents, 65 Nev.
28 533, 542 (1948). The requirement that every statute has an Enactment Clause, Nevada

1 Constitution Article 4, section 23 prohibits Legislation from overriding this with a statute such as
2 NRS 220.170. A state statute cannot repeal constitutionally authorized power such as the
3 Enactment Clause. Blair v. Crawford, 275 F. 3d 1156, 1159 (9th Cir. 2002). Statutes are
4 construed to accord with the constitution, not vice-versa.

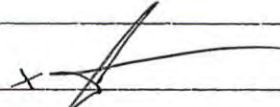
5 8. Legislation does not have the authority to enact laws that confer its power and
6 duties to non-legislative entity and to do so would exceed the scope of its boundaries defined by
7 Article 4 of the Nevada Constitution. The legislation has privatized its governmental functions to
8 a non-legislative private corporation entity, i.e., the Legislative Counsel Bureau (a misleading
9 name). Under the Nondelegation Doctrine, which is rooted in the principle of Separation of
10 Powers [See Exhibit 37], in the U.S. and Nevada Constitutions, it is considered illegal for
11 Legislation to delegate powers to private entities that impose or enforce binding legal
12 requirements. Currin v. Wallace, 306 US 1, 15-16 (1939). This doctrine helps ensure that the
13 elected members of the Legislation or government officials are subject to a “democratic
14 responsibility and accountability”. [See Ground Four, section 8]. This creates a check and
15 balance point but would dash the whole legislation scheme if it gives its power away to an entity
16 that is constrained by the checkpoints. The Nevada Revision Commission, which morphed later
17 into the Legislative Counsel bureau [LCB], was commissioned by the Legislative to create and
18 operate the NRS scheme with Carte Blanche. The LCB is an entity that functions as an
19 administrative agency or body, being a creature of statute; having a different relationship to the
20 people than do the legislative, executive, and judicial bodies created by the constitution. It is
21 considered an artificial administrative entity. The LCB is not a state officer and its NRS scheme
22 has no sovereignty over the public domain of the State of Nevada. The People are not required to
23 obey these codified statutes because they are nonbinding. The State Legislature created this
24 entity to rebrand voided statutes, which are to mirror the laws they once passed, so as to conjure
25 up on illusion that the NRS scheme appears to be the laws of legislation. In addition, an illegal
26 and voided law has the same effect upon a complaint or indictment as does an unconstitutional
27 law or a non-existent law. It renders all the charging instruments void. Because it has no force
28 and effect, it has no binding authority, no vitality, no existence. “It is as if it had never been

1 enacted, and it is to be regarded as never having been possessed of any legal force or effort.”
2 Stevenson v. Tufly, 20 Nev. 427, 428 (1890). It would be like proceeding with all criminal action
3 by the State against defendants based on laws created by the State Board of Pharmacy, an
4 administrative agency, that resembles laws once passed by the legislative. Although it has
5 authority over pharmacy professions, it is non-enforceable, has no authority to be imposed on
6 criminal defendants.

7 IV. CONCLUSION

8 As demonstrated in the above sections, the sentences imposed are “illegal sentences” and
9 as such, the Defendant prays this court grants relief from the currently imposed sentencings and
10 correct the sentences by vacating thereof and releasing Defendant immediately from custody,
11 from this false and unconstitutional imprisonment. It is not so much that the courts, in general,
12 are accomplices to the corruption and illegality of the legal system, as it is the defective engine
13 (NRS statutory scheme) that is illegally enforced by the courts and justice vehicle, that must be
14 rectified with an Enactment Clause, or be replaced to the rightful law – Statutes of Nevada-
15 exclusively, or revert back to the common law of England. Each of Defendant’s illegal
16 sentencing is at variance with the “controlling sentencing”, in such that the controlling sentence
17 is either non-existent, voided or invalid. Also, it is the lack of subject-matter jurisdiction, due to
18 the illegalities and unconstitutionality, in the trial and sentencing court proceeding that makes
19 the sentencing facially illegal. It is coram non iudice (Acts done without jurisdiction) and its
20 action a nullity. “And whether the want or excess of power is objected...or is apparent to the
21 court, it must surcease its [trial and sentencing court’s] action, or proceed extrajudicially.” Rhode
22 Island v. Mass., at 1234/720 ID. This Defendant has standing in this legal action because he is
23 falsely imprisoned by the Executive Branch (NDOC) of the State Government against his will.
24 This has caused irreparable harm by violating his Life, Liberty and property, and Due Process of
25 Law under the 5th, 6th, and 14th Amendments to the U.S. Constitution, as a citizen of this State
26 and Country.

1 Respectfully Submitted this 1st day of
2 June, 2023.

3 
4 William Martin #95529
5 Defendant in pro se
6


7 Certificate of Service

8 I hereby certify that I mailed a true and
9 correct copy of the foregoing Motion To Correct
10 Illegal Sentence, pre-paid, First Class U.S. Mail,
11 via the law library at Lovelock Correctional Center,
12 by placing same into the hands of prison officials,
13 to the following:

14
15 Churchill County District Attorney
16 165 N. Ada Street
17 Fallon, NV 89406

18
19 Nevada Attorney General
20 100 N. Carson Street
21 Carson City, NV 89701

22
23 Dated: 6-1-23

24 
25 William Martin #95529
26 Defendant in pro se
27

4

1 Case No. 19-10DC-0290 and 19-10DC-0289

FILED

2 Dept. No. 1

2023 JUN 14 AM 11:22

3 The undersigned hereby affirms that
4 this document does not contain the
5 social security number of any person.

TIFFANY JOSEPHS
COURT CLERK
BY *Tiffany Josephs* DEPUTY

6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF CHURCHILL

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 WILLIAM JACOB MARTIN,

13 Defendant.

**OPPOSITION TO MOTION TO
CORRECT ILLEGAL SENTENCE**

14 COMES NOW, the State of Nevada, by and through the Churchill County District
15 Attorney's Office, and files this Motion to Correct Illegal Sentence. This Answer and
16 Opposition is based on all documents on file herein as well as the attached Points and
17 Authorities.

18 DATED: This 14 day of June, 2023.

20 ARTHUR E. MALLORY
DISTRICT ATTORNEY

21 *Lane Mills*
22 _____
23 Lane R. Mills
24 Chief Deputy District Attorney
25 165 North Ada Street
26 Fallon, NV 89406
27
28

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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**POINTS AND AUTHORITIES IN SUPPORT OF OPPOSITION TO MOTION TO
CORRECT ILLEGAL SENTENCE**

1. PROCEDURAL BACKGROUND

On January 26, 2018 in case 18CR0045, the State charged William Jacob Martin, the Defendant, with Count 1: Fraudulent Use of Credit Card or Debit Card, or Identifying Description of Credit Account of Debit Card, a Category D Felony, in violation of NRS 205.760(1)(b), Count 2: Fraudulent Use of Credit Card or Debit Card, or Identifying Description of Credit Account of Debit Card, a Category D Felony, in violation of NRS 205.760(1)(b), Count 3: Burglary, a Category B Felony, in violation of NRS 205.060(2), and Count 4: Burglary, a Category B Felony, in violation of NRS 205.060(2). *Criminal Complaint, filed January 26, 2018, on Court file.* On February 2, 2018. The Justice Court appointed Charlie Woodman to represent the Defendant. *Order Appointing Counsel and Setting Status Hearing, on Court file.*

On February 14, 2018 in case 18CR00067, the State charged the Defendant with Count 1: Burglary, a Category B Felony, in violation of NRS 205.060(2). *Criminal Complaint, filed February 14, 2018, on Court file.*

The Defendant had an additional eight (8) different criminal cases filed in Churchill County between January 18, 2018 to February 28, 2018 in cases 18CR00028, 18CR00044, 18CR-0069, 18CR00128, 18CR00145, 18CR00144, 19CR00084, and 18CR000147. *Presentence Investigation Report, dated June 18, 2019, on Court file.* The above referenced cases contained charges such as burglary, grand larceny, possession of controlled substance, grand larceny of motor vehicle, and firearm offenses. *Id.*

On March 19, 2018, the Defendant was arrested and charged in Washoe County for possession of stolen vehicle, possession of controlled substances, two (2) counts of carrying concealed weapon without a permit, and two (2) counts of ex-felon in possession of a firearm. *Presentence Investigation Report, dated June 18, 2019, on Court file.*

On February 28, 2019, the Defendant signed and filed an Unconditional Waiver of Preliminary Examination for both cases 18CR00045 and 18CR00067. *Unconditional Waiver of Preliminary Examination, on Court file.* The Waiver of Preliminary Examination states the term of the negotiated deal below the Defendant's signature as "2x Burglary, Free to argue, +

1 Restitution in all cases not previously ordered, no new charges pursued arising from these
2 investigations.” *Id.*

3 Based upon plea negotiations, the State filed an Information in the Tenth Judicial District
4 Court case 19-10DC-0289 charging the Defendant with Count 1: Burglary, a Category B Felony,
5 in violation of NRS 205.060(2). *Information, filed March 6, 2019, on Court file.* The State filed
6 an Information in the Tenth Judicial District Court case 19-10DC-0290 charging the Defendant
7 with Count 1: Burglary, a Category B Felony, in violation of NRS 205.060(2). *Information, filed*
8 *March 6, 2019, on Court file.* The Court set an Arraignment for April 18, 2019 to be heard before
9 District Court Judge Shirley. *Setting Memo, filed March 7, 2019, on Court file.*

10 At the Arraignment, the Defendant entered guilty pleas to the charges in the Informations
11 and filed the fully executed Guilty Plea Memorandum, which the Defendant signed and initialed
12 each page. *See Guilty Plea Memorandum, filed April 18, 2019, on Court file.* The Guilty Plea
13 Memorandum provided in exchange for the guilty pleas to the two (2) cases, the other currently
14 charges cases and charges arising from this criminal episode would be dismissed or not pursued
15 and the State would be free to argue at the time of sentencing. *Id. at pages 1–2.* The Guilty Plea
16 Memorandum further provided that the Defendant understood the consequences of his plea by
17 specifying potential sentences for each charge. *Id. at pages 2–3.* Finally, the Defendant waived
18 his right to appeal, by signing the Guilty Plea Memorandum, unless the appeal is based upon
19 reasonable constitutional, jurisdictional or other grounds that challenge the legality of the
20 proceedings and except as otherwise provided in NRS 174.035(3). *Id. at page 5.*

21 The Court set a Sentencing Hearing for June 20, 2019. *Setting Memo, filed April 19,*
22 *2019, on Court file.* The Court sentenced the Defendant as follows:

- 23 • Tenth Judicial District Court case 19-10DC-0289 of the single charge of Burglary, a
24 Category B Felony, in violation of NRS 205.060(2), to the Nevada State Prison for a
25 minimum term of 36 months to a maximum term of 120 months, consecutive to Tenth
26 Judicial District Court case 18-10DC-0049 and Second Judicial District Court case CR18-
27 0761.

28

1 • Tenth Judicial District Court case 19-10DC-0290 of the single charge of Burglary, a
2 Category B Felony, in violation of NRS 205.060(2), to the Nevada State Prison for a
3 minimum term of 36 months to a maximum term of 120 months, consecutive to Tenth
4 Judicial District Court case 18-10DC-0089, Tenth Judicial District Court case 18-10DC-
5 0049 and Second Judicial District Court case CR18-0761.

6 On March 6, 2023, the Defendant filed this Motion to Correct Illegal Sentence.

7 The motion alleges (1) the Court did not have jurisdiction, claiming NRS 171.010 was
8 not enacted properly; and (2) the Court did not have jurisdiction, claiming NRS 201.230, NRS
9 200.366, NRS 200.405 were not enacted properly.

10 **2. FACTUAL HISTORY**

11 The Defendant went on a crime spree in multiple jurisdiction between December 2017 to
12 April 2018. *Presentence Investigation Report, dated June 18, 2019, on Court file.* The crime
13 spree included multiple burglaries, grand larcenies, possession of controlled substances, grand
14 larceny of motor vehicles, and firearm offenses. *Id.*

15 In Tenth Judicial District Court case 19-10DC-0289, a victim's purse was stolen with her
16 credit cards inside of it. *Id.* The Defendant was seen from security footage of using the victim's
17 credit cards to purchase Starbucks gift cards, multiple items of clothing, and other miscellaneous
18 items at a Safeway. *Id.* The total amount from the Defendant's usage of the victim credit cards
19 totaled \$484.35. *Id.*

20 In Tenth Judicial District Court case 19-10DC-0290, a victim's car was broken into. *Id.* The
21 victim's tools inside the vehicle were missing. *Id.* The tools were later to found to be pawned by
22 the Defendant. *Id.*

23 **3. STANDARD OF REVIEW AND APPLICABLE LAW**

24 A motion to correct an illegal sentence may only be granted when the sentence is "at variance
25 with the controlling sentencing statute or illegal in the sense that a court had gone beyond its
26 authority in acting without jurisdiction or imposes a sentence in excess of the statutory
27 maximum provided Haney v. State 124 Nev. 408 (2008).

28 **4. ARGUMENT**

1 a) **The Court Had Jurisdiction Under NRS 171.010 Because NRS 171.010 Was**
2 **Enacted Properly; Thus, This Claim Should Be Dismissed**

3 NRS 171.010 entitled Jurisdiction of offense committed in state, provides that “Every
4 person, whether an inhabitant of this state, or any other state, or of a territory or district of the
5 United States, is liable to punishment by the laws of this state for a public offense committed
6 therein, except where it is by law cognizable exclusively in the court of the United States.”

7 The requirement of the enacting clause does not apply to the Nevada Revised Statutes
8 (NRS), because the law as shown in the NRS has already been enacted. When the statutes in
9 question were proposed by bill to either the Senate or the House, each proposed law included an
10 enacting clause as required by the Nevada Constitution. The Statutes of Nevada contain the laws
11 with the enacting clauses required by the constitution. The NRS reproduce those laws as
12 classified, codified, and annotated by the Legislative Counsel, pursuant NRS 220.110 (listing
13 what the NRS shall contain); NRS 220.120 (authorizing the Legislative Counsel to keep NRS
14 current by “(a) adopt[ing] such system of numbering as the Legislative Counsel deems practical;
15 (b); caus[ing] the revision to be published in a number of volumes deemed convenient; and (c)
16 caus[ing] the volumes to be bound in loose-leaf binders of good, and so far
17 as possible, permanent quality”). The law that was enacted as NRS 171.010 or re-enacted or
18 amended, which was in effect in 2017 (time of these offenses), included the required enacting
19 clause.

20 The exhibits provided by the Defendant of the “Statutes of Nevada” show the enacting
21 clause included. The Court should deny this claim of the Defendant, without hearing, as it lacks
22 merit as the statute and the sentence imposed by the Court was lawful.

23 b) **The Court Had Jurisdiction Because NRS 205.060 Was Enacted Properly;**
24 **Thus, This Claim Should Be Dismissed**

25 The Nevada Supreme Court in its opinion in *State ex rel. Chase v. Rogers*, 10 Nev. 250,
26 260 (1875), held that under the provisions of the Nevada Constitution, laws “can only be enacted
27 by the people when ‘represented in Senate and Assembly.’” The words of “the people” along
28 with “represented in Senate and Assembly” are necessary to express the concurrence of authority

1 of the people to pass or enact laws. *Id.* Nevada Constitution, Article 4, Section 23, provides that
2 “[t]he enacting clause of every law shall be as follows: ‘The people
3 of the State of Nevada represented in Senate and Assembly, do enact as follows,’ and no law shall
4 be enacted except by bill.”

5 At the time of the offense and sentencing, NRS 205.060 outlined the requirements of being
6 found guilty of burglary and what penalties that person faces if pronounced guilty. Namely that
7 pursuant to NRS 205.060(1) that “a person who, by day or night, enters any house, room,
8 apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent,
9 vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car,
10 with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or
11 to obtain money or property by false pretenses, is guilty of burglary.” NRS 205.060(2) stated the
12 penalty as “a person convicted of burglary is guilty of a category B felony and shall be punished
13 by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum
14 term of not more than 10 years, and may be further punished by a fine of not more than \$ 10,000.”

15 The requirement of the enacting clause does not apply to the Nevada Revised Statutes
16 (NRS), because the law as shown in the NRS has already been enacted. When the statutes in
17 question were proposed by bill to either the Senate or the House, each proposed law included an
18 enacting clause as required by the Nevada Constitution. The Statutes of Nevada contain the laws
19 with the enacting clauses required by the constitution. The NRS reproduce those laws as
20 classified, codified, and annotated by the Legislative Counsel, pursuant NRS 220.110 (listing
21 what the NRS shall contain); NRS 220.120 (authorizing the Legislative Counsel to keep NRS
22 current by “(a) adopt[ing] such system of numbering as the Legislative Counsel deems practical;
23 (b); caus[ing] the revision to be published in a number of volumes deemed convenient; and (c)
24 caus[ing] the volumes to be bound in loose-leaf binders of good, and so far as possible, permanent
25 quality”). The law that was enacted as NRS 205.060, or re-enacted or amended, which were in
26 effect in 2018-2019, included the required enacting clauses. The exhibits provided by the
27 Defendant of the “Statutes of Nevada” show the enacting clause included. Based on the
28

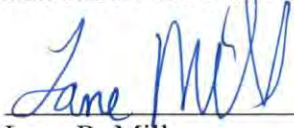
1 foregoing reasons, the Court should deny this claim of the Defendant, without hearing, as it lacks
2 merit and the Court acted within its authority.

3 **5. CONCLUSION**

4 The Defendant has failed to allege a ground upon which relief may be granted and this
5 motion should be denied.

6 DATED: This 14 day of June, 2023.

7 ARTHUR E. MALLORY
8 DISTRICT ATTORNEY

9 

10 Lane R. Mills
11 Chief Deputy District Attorney
12 165 North Ada Street
13 Fallon, NV 89406

14 Churchill County District Attorney
15 165 North Ada Street
16 Fallon, Nevada 89406
17 (775) 423-6561 Fax (775) 423-6528

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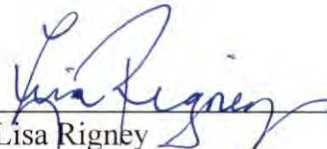
CERTIFICATE OF SERVICE

I certify that on the 14th day of June, 2023, I was an employee of the District Attorney's Office and that the foregoing **OPPOSITION TO MOTION TO CORRECT ILLEGAL SENTENCE** was served to the following address(s):

William Martin, #95529
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
Defendant, Pro Se

By:

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered
- Facsimile
- Email



Lisa Rigney
Legal Secretary

52

1 William Martin #95529

Original FILED

2023 JUL -3 AM 10:45

2 Lovelock Correctional Center

3 1200 Prison Road

4 Lovelock NV 89419

TIFFANY JOSEPHS
COURT CLERK
BY [Signature] DEPUTY

5 Defendant in pro se

6 The undersigned hereby affirms that this document does
7 NOT contain the social security number of any person.

9 In The Tenth Judicial District Court OF The State of Nevada

10 In And For The County of Churchill

RECEIVED JUL 03 2023

12 The State of Nevada,
13 plaintiff,

Case No. 19-10DC-0290; 19-10DC-0289

14 v.

Reply To Opposition To Motion To
Correct Illegal Sentence

15 William Jacob Martin,
16 Defendant.

18 Comes Now Defendant, William Martin, in pro se,
19 and hereby gives his reply to the State's opposition to
20 his motion to correct illegal sentence. This ~~motion~~
21 reply is made and based on all papers and pleadings
22 on file, and the following points and authorities.

24 ///

25 ///

26 ///

27

28

Points and Authorities

1. In its opposition, the state proffers an improper standard of review (*id.* at 3:23-27). This Court is not precluded from granting plaintiff's motion by *Haney v. State*, 124 Nev. 408 (2008). Rather, the Nevada Constitution - and the inherent jurisdiction vested in district courts by that constitution to fix mistakes at any time - militate this Court to consider the merits of the instant motion in full.

2. The State offers two arguments in its opposition:
"a) The Court Had Jurisdiction Under NRS 171.010 Because NRS 171.010 Was Enacted Properly; Thus [Defendant's] Claim Should Be Dismissed" (*id.* at 4:1-21) and "b) The Court Had Jurisdiction Because NRS 205.060 Was Enacted Properly; Thus [Defendant's] Claim Should Be Dismissed" (*id.* at 4:22 - 6:2). The gravamen of each argument is that ^{when} the relevant statutes "were proposed by bill to either the senate or the House, each proposed law included an enacting clause as required by the Nevada Constitution." (*Id.* at 4:8-9.) However, the state does not include those bills as evidence by way of exhibits in its opposition. Absent any evidence being provided by the state, this Court cannot rely on the state's naked assertions.

1 3. The state's attempt to rely on the exhibits
2 provided by the Defendant (Opposition at 4:19-20)
3 does not remedy this fatal flaw either. The state
4 offers no explanation or analysis for its position.
5 However, the original motion, and the memorandum in
6 support of that motion, explain in full the difference
7 between the statutes of Nevada and the Nevada
8 Revised Statutes.

9
10 4. The state also fails to appreciate the inherent
11 conundrum it raises by enumerating the elements
12 of burglary pursuant to NRS 205.060 (Opposition at
13 5:5-11). If what the state says is true -
14 that the statutes of Nevada are the actual law
15 and the NRS merely reproduce those laws - then
16 the elements in the statutes of Nevada and
17 the NRS must be identical with respect to
18 burglary; ~~otherwise~~ otherwise Defendant never had due
19 notice of what actions constituted burglary.
20 Yet the state does not even allege, let alone
21 demonstrate, that the elements are identical.

22 Conclusion

23 Defendant's motion should be GRANTED.

24 Dated: 6/29/23

25 X 
26 William Martin

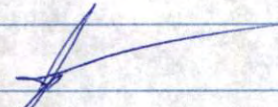
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1 Certificate of Service

2
3 I, William Martin, hereby certify that I
4 mailed a true and correct copy of the foregoing
5 Reply To Opposition To Motion To Correct Illegal Sentence
6 via U.S. Mail prepaid first class by handing same
7 to prison staff at Lovelock Correctional Center's law
8 library to the following:

9
10 Churchill County D.A.
11 165 North Ada Street
12 Fallon, NV 89406

13
14 Dated: 6/29/23

x 
William Martin

WCB

FILED

2023 JUL 10 AM 8:11

TIFFANY JOSEPHS
COURT CLERK

BY *J. Kenning*

1 CASE NO. 19-10DC-0289 / 19-10DC-0290

2 DEPT. NO. I

3 The undersigned hereby affirms that this document
4 does not contain the social security number of any person.

5
6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF CHURCHILL

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 WILLIAM JACOB MARTIN,

12 Defendant.

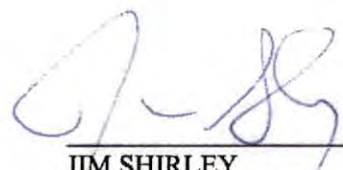
SETTING MEMO

13
14 The above-entitled matter is set for: **HEARING ON MOTION TO CORRECT
15 ILLEGAL SENTENCE**

16 Date and Time: **AUGUST 25, 2023 AT 10:00 A.M.**

17 Time Allowed: **2 HOUR(S)**

18 DATED this 10th day of July, 2023.



21 JIM SHIRLEY
22 DISTRICT COURT JUDGE

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CERTIFICATE OF SERVICE

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that on the 10th day of July, 2023, I served the foregoing **SETTING MEMO** on the parties, as noted below:

William Jacob Martin #95529
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419


Lane R. Mills Esq.
Chief Deputy District Attorney
165 North Ada Street
Fallon, NV 89406

DATED this 10th day of July, 2023.



Tiffany Josephs, Court Administrator

Subscribed and Sworn to before me
this 10th day of July, 2023.



Deputy Court Clerk

52

RECEIVED JUL 18 2023

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 Case No. 19-10DC-0289 and 19-10DC-0290

2 Dept. No. 1
3 The undersigned hereby affirms that
4 this document does not contain the
5 social security number of any person.

FILED
2023 JUL 18 AM 10:25
TIFFANY JOSEPHS
COURT CLERK
BY *Tiffany Josephs* DEPUTY

6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND
7 FOR THE COUNTY OF CHURCHILL

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 WILLIAM JACOB MARTIN,

13 Defendant.

REQUEST FOR SUBMISSION

14 COMES NOW, Lane R. Mills, Chief Deputy District Attorney and hereby requests that
15 Defendant's **MOTION TO CORRECT ILLEGAL SENTENCE** in the above-entitled matter
16 be submitted to the Court for a decision based upon all pleadings and papers herein on file. The
17 State certifies that pursuant to 10DCR 11.11 that it has been 7 days since the Martin's reply brief
18 has been filed. Pursuant to 10DCR11.12(c) a proposed order is submitted with this request for
19 submission.

20 DATED: This 17 day of July, 2023

22 ARTHUR E. MALLORY
23 DISTRICT ATTORNEY

Lane R. Mills

24 Lane R. Mills
25 Chief Deputy District Attorney
26 165 North Ada Street
27 Fallon, NV 89406
28

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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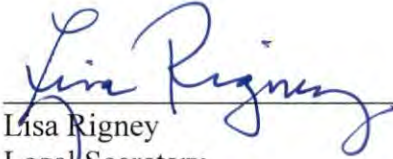
CERTIFICATE OF SERVICE

I certify that on the 18th day July, 2023 I was an employee of the District Attorney's Office and that the foregoing **REQUEST FOR SUBMISSION** was served to the following address(s):

William Jacob Martin #95529
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

By:

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered
- Facsimile
- Email



Lisa Rigney
Legal Secretary

50

RECEIVED JUL 18 2023

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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Case No. 19-10DC-0289 & 19-10DC-0290

Dept. No. 1

The undersigned hereby affirms that
this document does not contain the
social security number of any person.

FILED
2023 JUL 18 AM 10:26
TIFFANY JOSEPHS
COURT CLERK
BY *[Signature]* DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant.

**MOTION TO PRODUCE
DEFENDANT**

COMES NOW, the State of Nevada, Plaintiff herein, by and through Lane R. Mills,
Chief Deputy District Attorney of Churchill County, Nevada, and alleges as follows:

1. That WILLIAM JACOB MARTIN (Inmate No. 95529) is presently incarcerated with the Nevada Department of Corrections.
2. That the above-entitled matter is set on **August 25, 2023, at 10:00 am.**
3. That WILLIAM JACOB MARTIN (Inmate No. 95529) is the Defendant in the above-entitled matter.

WHEREFORE, applicant prays that an Order be made pursuant to NRS 209.274 ordering the appearance of the said WILLIAM JACOB MARTIN (Inmate No. 95529) before the Tenth Judicial District Court, on **August 25, 2023, at 10:00 am** and from time to time at such times and places as may be ordered and directed by the Court for such proceedings as thereafter may be necessary and proper in the premises and directing the execution of said Order by the Nevada Department of Corrections.

///
///

1 DATED: This 14 day of July, 2023.

2 ARTHUR E. MALLORY
3 DISTRICT ATTORNEY

4 

5 Lane R. Mills
6 Chief Deputy District Attorney
7 165 North Ada Street
8 Fallon, NV 89406

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Churchill County District Attorney
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CERTIFICATE OF SERVICE

On the 18th day of July, 2023, I was an employee of the District Attorney's Office and that the foregoing **MOTION TO PRODUCE DEFENDANT** was served to the following address(s):

William Jacob Martin #95529
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

By:

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered
- Facsimile
- Email



Legal Secretary

1 William Martin #95529

2 Lovelock Correctional Center

3 1200 Prison Road

4 Lovelock NV 89419

5 Defendant in pro se

FILED ORIGINAL

2023 JUL 21 AM 11:25

TIFFANY JOSEPHS
COURT CLERK

BY J. Benning DEPUTY

7 In The Tenth Judicial District Court of The State Of
8 Nevada, In And For The County Of Churchill

10 State of Nevada,

Case Nos. 19-10DC-0289;

11 Plaintiff,

19-10DC-0290

12 v.

13 William Jacob Martin,

Motion For Modification Of

14 Defendant.

Sentence

RECEIVED JUL 21 2023

16 Comes now William Martin, Defendant, in pro se,
17 and hereby moves this court for an order modifying the
18 sentence imposed. This motion is made and based on
19 the court's inherent authority to modify its own mistakes,
20 all papers and pleadings on file, and the following
21 points and authorities.

22 Points and Authorities

23 I. Facts

24 1. On 4/18/2019, Defendant pled guilty to burglary, then
25 a category B felony per NRS 205.060(2) at the time, in
26 both case nos. 19-10DC-0289 and 19-10DC-0290.

27 ///

1 2. This Court issued two judgments of conviction
2 on June 25, 2019. In each case, the Court
3 sentenced Defendant to prison for thirty-six (36) months
4 to one-hundred and twenty (120) months. The two
5 sentences were ran consecutively — and also con-
6 secutive to two other cases: ~~18-10DC-0049~~ 18-10DC-0049
7 in the Tenth Judicial District Court and CR 18-
8 0761 in the Second Judicial District Court.

9
10 3. Meanwhile, ~~Assembly Bill 236~~ Assembly Bill 236 (2019)
11 had passed both houses of the state legislature
12 and was set to take effect on July 01, 2019.

13
14 4. AB 236 made significant changes to the
15 Burglary statute, i.e., NRS 205.060. Specifically,
16 AB 236 differentiated ~~between~~ ~~between~~ residential
17 burglary from burglary of ~~from~~ a business, reducing
18 the latter to a Category C felony punishable
19 by one (1) to five (5) years in prison. See
20 generally section 55 of AB 236 (exhibit 1).

21
22 5. The version of NRS 205.060, ^{et seq.} currently in
23 effect is the version effected by AB 236.
24 Under the current law, Defendant's charges would
25 fall under NRS 205.060(1)(b), and punishment
26 would fall under NRS 205.060(2)(c) and NRS 193.130.

1 b. Defendant was also ordered to pay several thousand
2 dollars in restitution - which he has already
3 paid in full (see exhibit 2).
4

5 II. Argument

6

7 1. Defendant had a constitutional right to be
8 sentenced pursuant to the relevant language of
9 A.B. 236. The failure of defense counsel to raise
10 the matter at sentencing violated Defendant's
11 Sixth Amendment right to counsel; and the
12 failure of the prosecutor to raise this matter
13 at sentencing violated Defendant's Fourteenth
14 Amendment rights to due process and equal
15 protection, and Nevada's constitutional equiv-
16 alents, which are greater than the federal constitution.
17

18 As such, the Defendant was sentenced to a
19 penalty that exceeded legislative intent. Indeed,
20 this Court mistakenly assumed it was correctly apply-
21 ing legislative intent due to the failure of counsel for
22 both parties.

23
24 Furthermore, defense counsel had a constitutional
25 obligation to file either a post-judgment motion
26 on or shortly after July 01, 2019, or a notice of
27

1 appeal to the state Supreme Court. As this
2 Court is aware, convictions do not become final
3 until 30 days after the judgment of conviction
4 is filed. (See NRAP 4(a)(1).) As such, Defendant's
5 Sixth Amendment right to counsel was intact up till
6 and including July 25, 2019. Obtaining a new, less
7 severe sentence for Defendant would have been
8 a relatively simple matter, but defense counsel
9 failed to take any action whatsoever.

10

11 These failures worked to Defendant's extreme
12 detriment. At worst, but for these failures, Defendant
13 would have received consecutive sentences of two-
14 to-five years, rather than consecutive sentences of
15 three-to-ten years. An additional two-to-ten
16 years in prison cannot be considered anything
17 less than an extreme detriment.

18

19 2. Equity demands a reduction in Defendant's
20 sentence.

21

22 For federal defendants, to be eligible for a
23 sentence modification, the defendant must have been
24 sentenced based on a sentencing range that has
25 subsequently been lowered. 18 U.S.C. § 3582(c)(2).

26

27

28

1 Defendant recognizes that this Court is not bound
2 by 18 U.S.C. § 3582(c)(2). Defendant merely
3 offers it for its persuasive value. However, to
4 the best of Defendant's knowledge, Nevada does
5 not have a statute addressing sentence modifications
6 based on when a sentencing range has subsequently
7 been lowered. In situations such as this, when
8 Nevada law is silent on an issue, Nevada courts
9 often look to federal statutes. Defendant respect-
10 fully asks this Court to do so now.

11
12 Defendant recognizes the fundamental principle that
13 in order to receive equity, one must also give
14 equity. In this case, Defendant seeks to be
15 resentenced based on the current language of
16 NRS 205.060. In the alternative, he seeks that
17 case nos. 19-10DC-0289 and 19-10DC-0290
18 be ran concurrently. In exchange, he is
19 willing to give finality in both cases.

20
21 At present, Defendant has a lengthy motion
22 to correct illegal sentence pending before this
23 Court. Defendant also has the right to file
24 a federal petition for writ of habeas corpus
25 pursuant to 28 U.S.C. § 2254. If Defendant
26 is granted the relief he seeks in this instant

1 motion, he will waive all rights to both direct
2 and collateral attacks to his judgments of
3 conviction in both cases. This includes voluntary
4 withdrawal of his pending motion to correct
5 illegal sentence.

7 III. Legal Authority

8
9 **THIS COURT HAS INHERENT AUTHORITY TO
10 MODIFY, SUSPEND OR OTHERWISE CORRECT
11 IT'S OWN SENTENCES.**

12 This court has jurisdiction to modify a sentence due to that sentence
13 being pronounced based upon materially untrue assumptions or mistakes which
14 work to a defendant's extreme detriment. See, Staley v. State, 106 Nev. 75,
15 79, 787 P.2d 396, 398 (1990) ("Courts have jurisdiction to correct or modify
16 defective sentences that although imposed within statutory limits, are based
17 upon materially untrue assumptions or mistakes which work to the defendant's
18 extreme detriment.")

19 The power of this court to modify such sentences lies in its inherent
20 authority to correct its own mistakes, which naturally provides it the
21 authority to entertain motions requesting it to do so. Passani v. State, 108
22 Nev. 318, 321, 831 P.2d 1371, 1372 (1992). See also, Campbell v. District
23 Court, 114 Nev. 410, 413, 957 P.2d 1141, 1142 (1998)) (district courts have
24 inherent authority to modify, suspend or otherwise correct sentences based
25 upon materially untrue assumptions or mistakes which work to the extreme
26 detriment of defendant.)

26 //
27 //

THIS COURT HAS THE POWER TO MODIFY
SENTENCES BASED UPON UNTRUE
INFORMATION, OR COURT'S SUBJECTIVE
MISAPPREHENSION OF OTHERWISE TRUE
INFORMATION.

The Nevada Supreme Court has held that the District Court's can modify sentences based upon materially untrue facts made by the prosecutor that was misleading, which gave the court it's subjective misapprehension.

"[A] 'materially untrue foundation' can result either from the district court's reliance upon untrue information, or from the court's subjective misapprehension of otherwise true information. In either case, if the resulting sentence foundation is materially untrue, the court has the power to correct or modify the sentence." *State v. Eighth Judicial Dist. Court*, 100 Nev. 90, 98 (1984).

IV. Conclusion

Wherefore, defendant prays he be granted a new sentencing hearing and he be sentenced pursuant to the current language of NRS 205.060; or, in the alternative, that this Court adjust his two J.O.C.s and run both cases concurrently.

Respectfully Submitted this 19th day of July, 2023.

X
William Martin
Defendant in pro se

1 CERTIFICATE OF SERVICE BY MAIL

2 I do certify that I mailed a true and correct copy of the foregoing
3 MOTION FOR MODIFICATION OF SENTENCE to the below listed address on this
4 19th day of July, 2023, by placing same in the U.S. Mail
5 via prison law library staff, pursuant to Nevada Rules of Civil Procedure
6 5(b):

7
8 Churchill County D.A.
9 105 North Ada Street
10 Fallon NV 89406
11 (counsel for Plaintiff)

12
13 William Martin
14 Lovelock Correctional Center
15 1200 Prison Road
16 Lovelock, Nevada 89419
17 Defendant in Pro Se.

18 AFFIRMATION PURSUANT TO NRS § 239B.030

19 The undersigned does hereby affirm that the preceding MOTION FOR
20 MODIFICATION OF SENTENCE filed in this case does not contain the social
21 security number of any person.

22 Dated this 19th day of July, 2023.

23 William Martin
24 Lovelock Correctional Center
25 1200 Prison Road
26 Lovelock, Nevada 89419
27 Defendant in Pro Se.
28

List of Exhibits

1) Section 55 of AB236 (2019)

2) Subject Payment Receipt

Exhibit 1

Sec. 55. NRS 205.060 is hereby amended to read as follows:
 205.060 1. ~~Except as otherwise provided in subsection 5-a)~~
 A person who, by day or night, ~~unlawfully enters or unlawfully remains in any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car~~ ;

(a) Dwelling with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, is guilty of residential burglary.

(b) Business structure with the intent to commit grand or petit larceny, assault or battery on any person or any felony is guilty of burglary of a business.

(c) Motor vehicle, or any part thereof, with the intent to commit grand or petit larceny, assault or battery on any person or any felony is guilty of burglary of a motor vehicle.

(d) Structure other than a dwelling, business structure or motor vehicle with the intent to commit grand or petit larceny, assault or battery on any person or any felony is guilty of burglary of a structure.

2. Except as otherwise provided in this section, a person convicted of ~~burglary~~ :

(a) Burglary of a motor vehicle:
 (1) For the first offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.
 (2) For a second or subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) Burglary of a structure is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(c) Burglary of a business is guilty of a category C felony and shall be punished as provided in NRS 193.130.

(d) Residential burglary is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, ~~and may be further punished by a fine of not more than \$10,000.~~

3. If mitigating circumstances exist, a person who is convicted of residential burglary ~~and who~~ may be released on probation and granted a suspension of sentence if the person has not previously been convicted of residential burglary or another crime involving the ~~feasible~~ unlawful entry or invasion of a dwelling.



~~must not be released on probation or granted a suspension of sentence.~~

~~4. Whenever [a] any burglary pursuant to this section is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car traveled during the time the burglary was committed.~~

~~5. A person convicted of any burglary pursuant to this section who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the dwelling, structure or motor vehicle or upon leaving the dwelling, structure or motor vehicle, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.~~

~~5. The crime of burglary does not include the act of entering a commercial establishment during business hours with the intent to commit petit larceny unless the person has previously been convicted~~

~~(a) Two or more times for committing petit larceny within the immediately preceding 7 years, or~~

~~(b) Of a felony.~~

6. As used in this section:
 (a) "Business structure" means any structure or building, the primary purpose of which is to carry on any lawful effort for a business, including, without limitation, any business with an educational, industrial, benevolent, social or political purpose, regardless of whether the business is operated for profit.
 (b) "Dwelling" means any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car, including, without limitation, any part thereof that is divided into a separately occupied unit:
 (1) In which any person lives; or
 (2) Which is customarily used by a person for overnight accommodations,
 regardless of whether the person is inside at the time of the offense.



(c) "Motor vehicle" means any motorized craft or device designed for the transportation of a person or property across land or water or through the air which does not qualify as a dwelling or business structure pursuant to this section.

(d) "Unlawfully enters or unlawfully remains" means for a person to enter or remain in a dwelling, structure or motor vehicle or any part thereof, including, without limitation, under false pretenses, when the person is not licensed or privileged to do so. For purposes of this definition, a license or privilege to enter or remain in a part of a dwelling, structure or motor vehicle that is open to the public is not a license or privilege to enter or remain in a part of the dwelling, structure or motor vehicle that is not open to the public.

Sec. 56. NRS 205.067 is hereby amended to read as follows:
 205.067 1. A person who, by day or night, forcibly enters ~~an uninhabited~~ a dwelling without permission of the owner, resident or lawful occupant, whether or not a person is present at the time of the entry, is guilty of invasion of the home.

2. A person convicted of invasion of the home is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000. A person who is convicted of invasion of the home and who has previously been convicted of any burglary pursuant to NRS 205.060 or invasion of the home must not be released on probation or granted a suspension of sentence.

3. Whenever an invasion of the home is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car traveled during the time the invasion was committed.

4. A person convicted of invasion of the home who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.



5. As used in this section:
 (a) "Dwelling" has the meaning ascribed to it in NRS 205.060.
 (b) "Forcibly enters" means the entry of an uninhabited dwelling involving any act of physical force resulting in damage to the structure.
 (c) "Uninhabited dwelling" means any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car in which the owner or other lawful occupant resides.

Sec. 57. (Deleted by amendment.)

Sec. 58. NRS 205.0835 is hereby amended to read as follows:
 205.0835 1. Unless a greater penalty is imposed by a specific statute and unless the provisions of NRS 205.08345 apply under the circumstances, a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, shall be punished pursuant to the provisions of this section.

2. If the value of the property or services involved in the theft ~~is~~ :

(a) Is less than ~~the value of the property or services involved in the theft is \$650~~ \$1,200, the person who committed the theft is guilty of a misdemeanor.

(b) Is \$1,200 or more but less than \$5,000, the person who committed the theft is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(c) Is \$5,000 or more but less than ~~the value of the property or services involved in the theft is \$2,500~~ \$25,000, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.

(d) Is ~~the value of the property or services involved in the theft is \$2,500~~ \$25,000 or more ~~but less than \$100,000~~, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

(e) Is \$100,000 or more, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.

3. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.



Exhibit 2

Subject Payment Receipt

Number: 828586810111000763395
Receipt Date: October 16, 2020
In the Amount of: \$8,718.36

William Martin
4333 Reno Highway #32
Fallon, NV 89406

Subject ID Number: 1000763395
Tax ID Number: *****2071

Money Order Type: PC
Money Order Number: 4492
Field Receipt #: (Optional)

Received in Office: 101
Reference Officer: Lutzow

Subject remaining balances as of this payment are as follows: (To be reviewed with Officer)

Supervision Fee Balance:	30.00
Restitution Balance:	0.00
House Arrest Balance:	0.00
Drug Test Balance:	0.00
DNA Balance:	0.00
Psych Test Balance:	0.00
Extradition Balance:	0.00
Parolee Loan Balance:	0.00
Bad Debt Balance*:	0.00
Last Account Update:	November 18, 2020

* Bad Debt is an account that has not received a payment within 30 days of discharge, and every 30 days thereafter. The Bad Debt balance is before payment allocation.

Payment Allocated as follows:

Restitution 8,718.36

100

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TIFFANY JOSEPHS
COURT CLERK

BY *J. Bennett*

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Case No. 19-10DC-0289 and 19-10DC-0290

Dept. No. 1

The undersigned hereby affirms that
this document does not contain the
social security number of any person

RECEIVED JUL 18 2023

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant.

ORDER TO PRODUCE

It appearing to the satisfaction of the Court that it is necessary that WILLIAM JACOB MARTIN, (Inmate No. 95529), presently incarcerated with the Nevada Department of Corrections, be brought before this Court for proceedings in the above-entitled matter.

NOW, THEREFORE, IT IS HEREBY ORDERED, that pursuant to provisions of NRS 209.274, the Nevada Department of Corrections bring the said WILLIAM JACOB MARTIN, before the Tenth Judicial District Court, on **August 25, 2023, at 10:00 am**, and from time to time thereafter and at such times and places as may be ordered and directed by the Court for such proceedings as thereafter may be necessary and proper in the premises.

DATED this 24th day of July, 2023.

[Signature]

Judge

Handwritten initials

1 Case No. 19-10DC-0289 and 19-10DC-0290

2 Dept. No. 1
3 The undersigned hereby affirms that
4 this document does not contain the
5 social security number of any person.

FILED
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BY *Sadie* DEPUTY

RECEIVED JUL 27 2023

6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF CHURCHILL

9 THE STATE OF NEVADA,
10 Plaintiff,

11 vs.

12 WILLIAM JACOB MARTIN,
13 Defendant.

NOTICE OF ENTRY OF ORDER

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

14
15
16 NOTICE IS HEREBY GIVEN that the Order to Produce, a copy of which is attached
17 hereto, was duly entered in the above-entitled matter on July 24, 2023.

18
19 DATED: This 27 day of July, 2023.

20 ARTHUR E. MALLORY
21 DISTRICT ATTORNEY

Arthur E. Mallory
22 Lane R. Mills
23 Chief Deputy District Attorney
24 165 North Ada Street
25 Fallon, NV 89406
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Case No. 19-10DC-0289 and 19-10DC-0290

Dept. No. 1

The undersigned hereby affirms that this document does not contain the social security number of any person

TIFFANY JOSEPHS
COURT CLERK
BY *[Signature]*

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant.

ORDER TO PRODUCE

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NOW, THEREFORE, IT IS HEREBY ORDERED, that pursuant to provisions of NRS 209.274, the Nevada Department of Corrections bring the said WILLIAM JACOB MARTIN, before the Tenth Judicial District Court, on **August 25, 2023, at 10:00 am**, and from time to time thereafter and at such times and places as may be ordered and directed by the Court for such proceedings as thereafter may be necessary and proper in the premises.

DATED this 24th day of July, 2023.

[Signature]

Judge

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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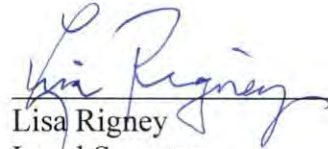
CERTIFICATE OF SERVICE

I certify that on the 27th day of July, 2023, I was an employee of the District Attorney's Office and that the foregoing **Notice of Entry of Order** was served to the following address(s):

William Jacob Martin #95529
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

By:

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered
- Facsimile
- Email



Lisa Rigney
Legal Secretary

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM JACOB MARTIN,)
 APPELLANT,)
vs.)
THE STATE OF NEVADA,)
 RESPONDENT.)
_____)

SUPREME COURT NO. 87437
DC CASE NO. 19-10DC-0289

**RECORD ON APPEAL
VOLUME
3**

ATTORNEY FOR APPELLANT
WILLIAM JACOB MARTIN, PRO PER
NORTHERN NV CORRECTIONAL CENTER
P.O. BOX 7000
CARSON CITY, NV 89702

ATTORNEY FOR RESPONDENT
LANE MILLS, ESQ.
CHIEF DEPUTY DISTRICT ATTORNEY
165 N. ADA STREET
FALLON, NV 89406

#19-10DC-0289 - STATE OF NEVADA vs. WILLIAM JACOB MARTIN
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2	Reply to Opposition to Motion to Correct Illegal Sentence	7/3/2023	134 - 137
3	Reply to Opposition to Motion to Modify Sentence	8/15/2023	181 - 184
3	Reponse to Motion for Appointment of Counsel	8/9/2023	175 - 177
2	Request for Submission (Motion to Correct...)	7/18/2023	140 - 141
1	Return of Service	6/26/2019	72
1	Setting Memo (Arrestment)	3/7/2019	33 - 34
2	Setting Memo (Motion to Correct...)	7/10/2023	138 - 139
1	Setting Memo (Sentencing)	4/19/2019	48 - 49

JEP

FILED

2023 JUL 28 PM 12: 10

TIFFANY JOSEPHS
COURT CLERK

BY *[Signature]*

1 Case No. 19-10DC-0290 and 19-10DC-0289

2 Dept. No. 1

3 The undersigned hereby affirms that
4 this document does not contain the
social security number of any person.

5
6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF CHURCHILL

8
9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 WILLIAM JACOB MARTIN,

13 Defendant.

**OPPOSITION TO MOTION TO
MODIFY SENTENCE**

14 COMES NOW, the State of Nevada, by and through the Churchill County District
15 Attorney's Office, and hereby opposes the Defendant's Motion to Modify Sentence. This
16 Opposition is based on all pleadings and papers herein on file and the attached Points and
17 Authorities.

18 DATED: This 28 day of July, 2023.

19
20 ARTHUR E. MALLORY
DISTRICT ATTORNEY

[Signature]

21
22 Lane R. Mills
23 Chief Deputy District Attorney
24 165 North Ada Street
25 Fallon, NV 89406
26
27
28

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

**POINTS AND AUTHORITIES IN SUPPORT OF OPPOSITION TO MOTION TO
MODIFY SENTENCE**

1. PROCEDURAL HISTORY

In case 19-10DC-0290 the Defendant pled guilty to a single charge of Burglary for an offense that occurred on January 17, 2018. In case 19-10DC-0289 the Defendant pled guilty to a single charge of Burglary for an offense that occurred on December 21, 2017.

The Defendant was sentenced on both cases June 25, 2019. No appeal was filed. The Defendant thereafter the Defendant filed a Writ of Habeas Corpus which was dismissed as untimely by this Court. The Writ Dismissal order was appealed to the Nevada Supreme Court and Affirmed. Additionally, yet another motion regarding his sentence is currently pending and which has been fully briefed.

2. DEFENDANT'S BASELESS CLAIMS

In the latest fanciful brief filed by the Defendant, he claims that because AB 236(2019) was pending but not effective at the time of sentencing he is entitled to be sentenced under the provisions of the law that became effective on July 1, 2019. It has long been established under Nevada law that the "law in effect at the time of the commission of a crime governs the prosecution of criminal offenses" State v. Dist. Ct. (Pullin) 124 Nev. 564, 568 (2008). There is no provision within AB 236 that provides retroactive application of the new statutory scheme. As such any attempt to change a sentence based upon a change in Nevada law is contrary to established law. As such there is no legal basis for this motion and it should be dismissed.

The Defendant's attempt to ignore settle Nevada law in favor of 18 U.S.C. 3582 should likewise be denied as baseless. There is nothing within Nevada law that permits a court to just disregard Nevada's statutory scheme and adopt whatever scheme from some other source an individual Defendant finds convenient to their case.

///

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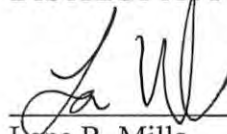
///

///

1 As such the State requests that this Court Deny the Defendant's Motion
2

3 DATED: This 24 day of July, 2023.

4 ARTHUR E. MALLORY
5 DISTRICT ATTORNEY

6 

7 _____
8 Lane R. Mills
9 Chief Deputy District Attorney
10 165 North Ada Street
11 Fallon, NV 89406

12 Churchill County District Attorney
13 165 North Ada Street
14 Fallon, Nevada 89406
15 (775) 423-6561 Fax (775) 423-6528
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Churchill County District Attorney
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Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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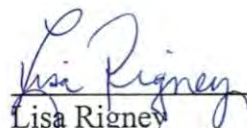
CERTIFICATE OF SERVICE

I certify that on the 28th day of July, 2023, I was an employee of the District Attorney's Office and that the foregoing **OPPOSITION TO MOTION TO MODIFY SENTENCE** was served to the following address(s):

William Martin, #95529
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
Defendant, Pro Se

By:

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered
- Facsimile
- Email



Lisa Rigney
Legal Secretary

1 William Martin #95529
2 Lovelock Correctional Center
3 1200 Prison Road
4 Lovelock NV 89419
5 Defendant in pro se

ORIGINAL
2023 JUL 31 PM 3:00
TIFFANY JOSEPHS
COURT CLERK
BY *T. Benninghoff*

6 The undersigned hereby affirms that this document does not
7 contain the social security number of any person.
8 In The Tenth Judicial District Court of The State of Nevada
9 In And For The County of Churchill

RECEIVED JUL 31 2023

11 The State of Nevada,	Case Nos.: 19-10DC-0289;
12 Plaintiff,	19-10DC-0290
13 v.	
14 William Jacob Martin,	Motion For Appointment Of
15 Defendant.	Counsel

17 Comes Now William Martin, Defendant, in pro se,
18 and hereby gives his motion for appointment of counsel.
19 This motion is made and based on all papers and
20 pleadings on file, and the following points and authorities.

22 Points and Authorities

24 1. Defendant has filed a motion to correct illegal
25 sentence (motion to correct) that has been fully
26 briefed. A hearing is currently set for 8/25/23.

1 2. More recently, Defendant filed a motion for modifi-
2 cation of sentence (motion for modification) that has
3 not yet been fully briefed.

4
5 3. If the motion for modification is granted, the motion
6 to correct will become moot. (See motion for modification
7 at 5:12 - 6:5.)

8
9 4. It is also possible that the State and the Defendant
10 may be able to reach a stipulation on both motions.

11
12 5. As such, appointed counsel can help negotiate such
13 a settlement and/or help navigate court procedure to
14 ensure finality and efficiency in this matter.

15
16 6. Lastly, Defendant requests that this court appoint
17 counsel other than any counsel who has previously
18 represented him in this matter.


19
20 Respectfully Submitted this 27th day of July, 2023

21
22
23 X 
24 William Martin
25 Defendant in person

Certification

I hereby certify that I mailed a true and correct copy of the foregoing Motion For Appointment of Counsel via U.S. Mail first class pre paid to the following on July 27th, 2023:

Churchill County D.A.
165 North Ada Street
Fallon, NV 89406

X 
William Martin

FILED
ORIGINAL
2023 JUL 31 PM 3:02

TIFFANY JOSEPHS
COURT CLERK

BY *J. Benninghoff*

1 William Martin # 95529
2 Lovelock Correctional center
3 1200 Prison Road
4 Lovelock, NV 89419
5 775-273-1300

6 Defendant in pro se

7 The undersigned hereby affirms that this document does not contain
8 the social security number of any person.

9 In the Tenth Judicial District Court of the State of Nevada,

10 In And For The County of Churchill

12 The State of Nevada, Case Nos. 19-10DC-0289;

13 Plaintiff,

19-10DC-0290

14 v.

15 William Jacob Martin,

Motion To Strike Plaintiff's Re-

16 Defendant.

quest For Submission And Proposed

17 Order

18
19 On 6/5/23, Defendant filed in pro se a Motion To
20 Correct Illegal sentence. On 6/14/23, the State
21 filed an opposition; and on 7/3/23, Defendant filed
22 a reply. Shortly thereafter, this Court set the
23 matter to be heard on 8/25/23 at 10 a.m.

24
25 On 7/18/23, the state filed the following
26 (which Defendant received via LCC's legal mail on the
27 morning of 7/21/23):

00169

- 1 1) Motion To Produce Defendant;
- 2 2) (Proposed) Order To Produce;
- 3 3) Request For Submission (of Motion To Correct
- 4 Illegal sentence); and,
- 5 4) (Proposed) Order On Motion To Correct Illegal
- 6 Sentence.

7
8 Defendant now moves this Court for an order
9 striking Plaintiff's Request For submission and
10 Order On Motion To Correct Illegal sentence.

11 This motion is made and based on all papers
12 and pleadings herein, and the following points
13 and authorities.

14
15 Points and Authorities

16
17 1. The request for submission is premature. This
18 Court has already ordered a hearing on Defendant's
19 motion to correct illegal sentence. That hearing
20 has not yet taken place. (Notably, the state
21 is clearly aware of this, given its motion to produce Defendant)
22 Thus, the appropriate time to submit the motion to
23 correct illegal sentence is after the hearing. Not before

24
25 ~~///~~
26 ~~///~~
27 ~~///~~

Conclusion

Wherefore Defendant prays this Court issue an order STRIKING Plaintiff's request for submission and (proposed) order on motion to correct illegal sentence.

Respectfully submitted this 27th day of July, 2023.

x [Signature]
William Martin
Defendant in pro se

Certification

I certify that on the 27th day of July, 2023, I mailed via U.S. Mail first class prepaid a true and correct copy of the foregoing Motion To Strike Plaintiff's Request For Submission And Proposed Order to:

Churchill County D.A.
165 North Ada Street
Fallon, NV 89406

x [Signature]
William Martin

FILED
ORIGINAL
2023 JUL 31 PM 3:02

TIFFANY JOSEPHS
COURT CLERK
BY J Benninghoff

1 William Martin # 95529
2 Lovelock Correctional Center
3 1200 Prison Road
4 Lovelock NV 89419

5 Defendant in pro se

6 The undersigned hereby affirms that this document does not
7 contain the social security number of any person.

8 In The Tenth Judicial District Court of The State of Nevada,
9 In And For The County of Churchill

11 The State of Nevada, Case No. 19-10DC-0289;

12 Plaintiff, 19-10DC-0290

13 v.

14 William Jacob Martin Opposition To States' Motion To

15 Defendant. Produce Defendant

17 On 7/18/23, the state filed, inter alia, a motion to pro-
18 duce defendant and proposed order to produce. Specifically,
19 the state seeks that defendant be brought before the Tenth
20 Judicial District Court.

22 The relevant hearing, currently set for 8/25/23 at
23 10 a.m., pertains to Defendant's Motion To Correct Illegal
24 Sentence. Defendant has recently filed a motion for
25 modification of sentence (the cause for which he
26 only discovered after he filed all his reply brief on the
27 motion to correct illegal sentence). Respectfully, if this

1 Court chooses to grant the latter motion, there will
2 no longer be a need to hear the motion to correct illegal
3 sentence. In the alternative, postponing the 8/25/23 hearing
4 until briefing is complete on the motion for modifications
5 would likely be the most efficient way to proceed —
6 if this Court decides to hear arguments on both ^{motions,} hearings,
7 it could do so at one hearing.

8
9 Furthermore, as this Court is aware, Lovelock Correctional
10 Center ~~has~~ (LCC) has an available courtroom. Defendant
11 requests that his motion(s) be heard in the courtroom
12 at LCC.

13 Conclusion

14 Defendant prays that the 8/25 - hearing be postponed
15 until after briefing is complete on Defendant's motion
16 for modification of sentence; and that, if and when
17 a hearing is conducted on these matters, that hearing
18 take place in the courtroom at Lovelock Correctional Center.

19
20 Respectfully Submitted this 27th day of July, 2023

21
22 X
23 William Martin
24 Defendant in pro se
25
26
27
28


1 Certification

2 I certify that I mailed a true and correct
3 copy of the foregoing Opposition to State's Motion
4 To Produce Defendant on July 27th, 2023 via U.S. Mail
5 first class prepaid to:

6
7 Churchill County D.A.

8 165 North Ada Street

9 Fallon, NV 89406

10
11 X 
12 William Martin
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405

1 Case No. 19-10DC-0290 and 19-10DC-0289

2 Dept. No. 1

3 The undersigned hereby affirms that
4 this document does not contain the
5 social security number of any person.

FILED
2023 AUG -9 AM 10: 26

TIFFANY JOSEPHS
COURT CLERK
BY Bennett DEPUTY

6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF CHURCHILL

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 WILLIAM JACOB MARTIN,

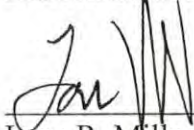
13 Defendant.

**RESPONSE TO MOTION FOR
APPOINTMENT OF COUNSEL**

14 COMES NOW, the State of Nevada, by and through the Churchill County District
15 Attorney's Office, and hereby files this response to the Motion for Appointment of Counsel.
16 This response is based upon all pleadings and papers herein on file and the attached Points and
17 Authorities.

18 DATED: This 9 day of August, 2023.

20 ARTHUR E. MALLORY
DISTRICT ATTORNEY

21 

22 Lane R. Mills
23 Chief Deputy District Attorney
24 165 North Ada Street
25 Fallon, NV 89406

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

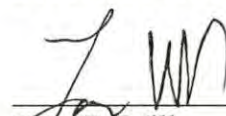
28

POINTS AND AUTHORITIES IN SUPPORT OF RESPONSE TO MOTION FOR APPOINTMENT OF COUNSEL

This Defendant previously had appointed counsel, Mr. Woodman, until the Defendant fired his attorney via a pleading filed with this Court on September 23, 2019. The Court granted the motion on October 14, 2019. He now seeks to have any attorney but the one he previously fired. He submits no authority to this court for the granting of this motion on a case that has long been concluded and at great cost to the taxpayers of Churchill County to help litigate his frivolous motions. As such the State would request that the Court Deny this request.

DATED: This 9 day of August, 2023.

ARTHUR E. MALLORY
DISTRICT ATTORNEY



Kane R. Mills
Chief Deputy District Attorney
165 North Ada Street
Fallon, NV 89406

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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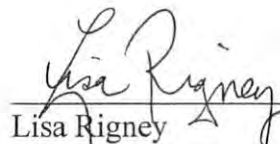
CERTIFICATE OF SERVICE

I certify that on the 9th day of August, 2023, I was an employee of the District Attorney's Office and that the foregoing **RESPONSE TO MOTION FOR APPOINTMENT OF COUNSEL** was served to the following address(s):

William Martin, #95529
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
Defendant, Pro Se

By:

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered
- Facsimile
- Email



Lisa Rigney
Legal Secretary

lee

1 Case No. 19-10DC-0290 and 19-10DC-0289

2 Dept. No. 1

3 The undersigned hereby affirms that
4 this document does not contain the
social security number of any person.

FILED
2023 AUG -9 AM 10:27
TIFFANY JOSEPHS
COURT CLERK
BY Bennings DEPUTY

6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF CHURCHILL

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 WILLIAM JACOB MARTIN,

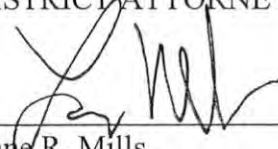
13 Defendant.

**OPPOSITION TO MOTION TO
STRIKE**

14 COMES NOW, the State of Nevada, by and through the Churchill County District
15 Attorney's Office, and hereby files this Opposition to the Motion to Strike. This Opposition is
16 based upon all pleadings and papers herein on file and the attached Points and Authorities.

17 DATED: This 9 day of August, 2023.

19 ARTHUR E. MALLORY
DISTRICT ATTORNEY

20 
21

22 Lane R. Mills
23 Chief Deputy District Attorney
24 165 North Ada Street
25 Fallon, NV 89406
26
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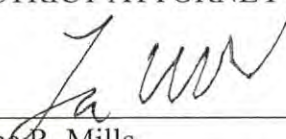
Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 **POINTS AND AUTHORITIES IN SUPPORT OF OPPOSITION TO MOTION TO**
2 **STRIKE**

3 The Request for Submission was properly filed under 10 DCR 11. The Defendant submits
4 no authority for this Court to strike the pleading. This Court can of course decide to still have a
5 hearing and not decide the matter on the pleadings. That of course is within the discretion of the
6 Court. However, under this Court's rules the Court is unable to take the matter under submission
7 unless there is a request. The State made that request so that this Court has the option under its
8 own rules to decide this matter on the pleadings.

9 DATED: This 9 day of August, 2023.

10 ARTHUR E. MALLORY
11 DISTRICT ATTORNEY

12 

13 Lane R. Mills
14 Chief Deputy District Attorney
15 165 North Ada Street
16 Fallon, NV 89406

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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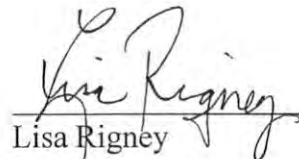
CERTIFICATE OF SERVICE

I certify that on the 9th day of August, 2023, I was an employee of the District Attorney's Office and that the foregoing **OPPOSITION TO MOTION TO STRIKE** was served to the following address(s):

William Martin, #95529
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
Defendant, Pro Se

By:

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered
- Facsimile
- Email



Lisa Rigney
Legal Secretary

SP

FILED

2023 AUG 15 AM 10:28

TIFFANY JOSEPHS
COURT CLERK
BY *T. Josephs* DEPUTY

1 William Martin #95529

2 Lovelock Correctional Center

3 1200 Prison Road

4 Lovelock, NV 89419

5 Defendant in pro se

6 The undersigned hereby affirms that this document does

7 NOT contain the social security number of any person.

8

9 In The Tenth Judicial District Court of the State of Nevada,

10 In And For The County of Churchill

11

12 The State of Nevada, Case Nos. 19-10DC-0289;

13 Plaintiff, 19-10DC-0290

14

15 v. William Martin, Reply To Opposition To Motion To

16 Defendant. Modify Sentence

17

18 Comes Now William Martin, Defendant, in pro se,

19 and hereby gives his reply to the state's opposition

20 to motion to modify sentence. This Reply is based on

21 all papers and pleadings on file and the following

22 points and authorities.

23

24 Points and Authorities

25

26 1. The state offers a single case law in support of

27 its opposition, State v. Dist. Ct. (Pullin) 124 Nev. 564 (2008)

28

00181

RECEIVED AUG 15 2023

1 Pullin involved a situation in which a district court
2 sentenced a defendant to a term that was below the
3 mandatory minimum at the time the offense was committed;
4 yet, the law had changed before the defendant was sentenced.

5
6 2. The instant case can be distinguished from Pullin.
7 The maximum sentence one can receive currently for
8 commercial burglary is two-to-five years. Two-to-five
9 years is within the parameters of what this Court could
10 have sentenced Defendant to on each of these two cases
11 under the old version of the statute. Unlike Pullin,
12 what Defendant now seeks — either consecutive two-to-
13 fives or, in the alternative, concurrent three-to-twenties —
14 does not fall below the mandatory minimums.

15
16 3. Furthermore, unlike in Pullin, in the instant case, the
17 change in statute did not merely lower the penalty
18 for burglary, but it explicitly recognized that commercial
19 burglary is a less severe crime than residential
20 burglary — a distinction that this Court could
21 and, respectfully, should, have made at sentencing.
22 However, counsel for both parties failed to bring
23 it to this Court's attention.

24
25 4. Under the Rule of Lenity, this Court would have
26 likely been persuaded to hand down consecutive two-to-

1 fives had it been properly briefed by counsel.
2 Likewise, looking to federal law is also persuasive.
3 Furthermore, the state argues "[t]here is nothing within
4 Nevada law that permits a court to just disregard
5 Nevada's statutory scheme and adopt whatever scheme
6 from some other source an individual defendant finds
7 convenient to their case." (Opp. at 1:22-24.) However,
8 the state doesn't offer any statute relevant to what
9 Defendant is asking of this Court; nor does the instant
10 motion ask this Court to "disregard Nevada's statutory
11 scheme."

12
13 5. Rather, Defendant asks this Court to exercise its equity
14 jurisdiction by modifying his sentence to reflect the
15 Nevada's legislature's intent regarding commercial burglaries.
16 The modification sought by Defendant is within this
17 Court's equity jurisdiction. (If, by contrast, Defendant
18 asked for a sentence below the mandatory minimum under
19 the old statute, that would exceed the equity jurisdiction of
20 this Court.)

21 Conclusion

22 Defendant's Motion For Modification Of Sentence should be GRANTED.

23

24 Respectfully submitted this 11th day of August, 2023.

25

26

27

28

X

William Martin

3

Defendant in pro se

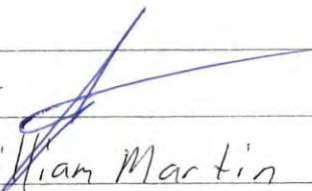
00183

Certificate of Service

I certify that I mailed a true and correct copy of the foregoing Reply To Opposition to Motion To Modify sentence, via U.S. Mail, first class, postage pre-paid, via prison legal mail, to:

Churchill County D.A.
165 North Ada Street
Fallon, NV 89406

Dated: 8/11/23

X 
William Martin
Defendant in pro se

1 Case No. 19-10DC-0289 and 19-10DC-0290

2 Dept. No. 1

3 The undersigned hereby affirms that
4 this document does not contain the
5 social security number of any person.

FILED

2023 SEP 27 AM 11: 22

TIFFANY JOSEPHS
COURT CLERK

BY Kat Galt DEPUTY

6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR
7 THE COUNTY OF CHURCHILL

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 WILLIAM JACOB MARTIN,,

12 Defendant

**ORDER DENYING MOTION TO
CORRECT ILLEGAL SENTENCE**

13
14 The Defendant in this matter filed a Motion to Correct Illegal Sentence on June 5, 2023,
15 the State filed an opposition on June 14, 2023, and the Defendant filed a reply on July 3, 2023.

16 The Defendant claims NRS 171.010 and NRS 205.060 were not enacted properly as the basis for
17 his claim that he is subject to an illegal sentence.


18 Under Haney v. State 124 Nev. 408 (2008) a motion to correct an illegal sentence may
19 only be granted when the sentence is at variance with the controlling sentencing statute or illegal
20 in the sense that a court had gone beyond its authority in acting without jurisdiction or imposes a
21 sentence in excess of the statutory maximum.

22
23 The requirement of the enacting clause does not apply to the Nevada Revised Statutes
24 (NRS), because the law as shown in the NRS has already been enacted. When the statutes in
25 question were proposed by bill to either the Senate or the House, each proposed law included an
26 enacting clause as required by the Nevada Constitution. The Statutes of Nevada contain the laws
27 with the enacting clauses required by the constitution. The NRS reproduce those laws as
28

1 classified, codified, and annotated by the Legislative Counsel, pursuant NRS 220.110 (listing
2 what the NRS shall contain); NRS 220.120 (authorizing the Legislative Counsel to keep NRS
3 current by "(a) adopt[ing] such system of numbering as the Legislative Counsel deems practical;
4 (b); caus[ing] the revision to be published in a number of volumes deemed convenient; and (c)
5 caus[ing] the volumes to be bound in loose-leaf binders of good, and so far as possible,
6 permanent quality"). The law that was enacted as NRS 171.010 or re-enacted or amended, which
7 was in effect in 2017 (time of these offenses), included the required enacting clause. This same
8 analysis also applies to Martin's claims with respect to NRS 205.060. As such Martin's claims are
9 without merit.
10

11
12 Furthermore, Martin does not claim that his sentence is in excess of the statutory
13 maximum. Accordingly, the Defendant's Motion to Correct Illegal Sentence is hereby DENIED.

14
15 Dated this 22nd day of September 2023.

16
17 
18 _____
19 JIM SHIRLEY
20 DISTRICT JUDGE
21
22
23
24
25
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CERTIFICATE OF SERVICE

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that on the 17th day of September, 2023, I served the foregoing **ORDER DENYING MOTION TO CORRECT ILLEGAL SENTENCE** on the parties, as noted below:

Lane R. Mills Esq.
Chief Deputy District Attorney
165 North Ada Street
Fallon, NV 89406


William Jacob Martin #95529
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

DATED this 17th day of September, 2023.



Deputy Court Clerk

Subscribed and Sworn to before me this 17th day of September, 2023.



Deputy Court Clerk

2

1 William J. Martin #95529

2 NNCC

3 PO Box 7000

4 Carson City, NV 89701

5 Defendant in pro se

6 Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain social security numbers.

FILED
ORIGINAL
2023 OCT 11 AM 11:25

TIFFANY JOSEPHS
COURT CLERK
Shellie Neaton
BY DEPUTY

7
8 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9 IN AND FOR THE COUNTY OF CHURCHILL

10
11 THE STATE OF NEVADA,

12 Plaintiff,

13 vs

14 WILLIAM MARTIN,

15 Defendant.

Case Nos 19-10DC-0289
19-10DC-0289

NOTICE OF APPEAL

16
17 Notice is given that Defendant William Martin, in pro se, appeals to the Nevada Supreme Court THE
18 ORDER DENYING MOTION TO CORRECT ILLEGAL SENTENCE as filed on **September 27, 2023**.

19 Dated this 7th day of October, 2023

20 
William Martin

21 Defendant pro se

RECEIVED OCT 11 2023

1 CERTIFICATE OF SERVICE

2

3 I hereby certify I mailed a true and correct copy of the foregoing **NOTICE OF APPEAL** via U.S. Mail

4 First Class pre-paid to the following:

5 Churchill County DA
6 165 N. Ada Street
7 Fallon, NV 89406
(atty for Plaintiff)

8 Dated this 7th day of October, 2023.

9 
10 Debby Styles

1 Case No. 19-10DC-0289
2 Dept. No. 1

FILED
2023 OCT 12 AM 9:41
TIFFANY JOSEPHS
COURT CLERK
Shelley Herten
BY _____ DEPUTY

6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF CHURCHILL

8
9 WILLIAM JACOB MARTIN,
10 Appellant,

11 vs.

12 THE STATE OF NEVADA,
13 Respondent.

14
15 CASE APPEAL STATEMENT

16
17 1. Name of Appellant filing this Case Appeal Statement:

18 Prepared by District Court Clerk on Behalf of:
19 William Jacob Martin

20 2. What Judge Issued Decision, Judgment or Order?

21 Judge Jim Shirley
22 Tenth Judicial District Court

23 3. Who is/are the Appellant(s) and Name and Address of Appellant(s) Counsel?

24 William Jacob Martin Pro Per
25 NNCC
26 P.O. Box 7000
27 Carson City, NV 89701
28

1 4. Who is/are Respondent(s) and Name and Address of Respondent(s) Counsel?

2 State of Nevada Churchill County District Attorney
3 165 N. Ada Street
4 Fallon, NV 89406

5 5. Are Counsel not licensed to Practice Law in Nevada? Yes No
6 If the answer is yes, has counsel been granted permission to appear under SCT 42?
7 Yes No (Attach copy of District Court Order granting permission)

8 6. Was Appellant Represented by Appointed or Retained Counsel at District Court?

- 9 Appointed Counsel
10 Retained Counsel
11 No Counsel

12 7. Is Appellant Represented by Appointed or Retained Counsel on Appeal?

- 13 Appointed Counsel
14 Retained Counsel
15 No Counsel

16 8. Was Appellant Granted leave to Proceed in Forma Pauperis? Yes No

17 Date of Order:

18 9. When did the Proceedings Commence in the District Court? (i.e., date complaint,
19 indictment, information or petition was filed)

20 October 11, 2023

21 10. Provide Brief Description of Nature of Action; Result in District Court, Type of
22 Judgment or Order Being Appealed and Relief Granted by District Court: Counsel for
23 Appeal:

24 03/16/21: Petition for Writ of Habeas Corpus was filed (03/16/21).

25 05/20/21: The Court issued an Order Directing Response to the Churchill
26 County District Attorney.

27 06/28/21: Motion to Dismiss Post Conviction Writ as Untimely filed by
28 the Churchill County District Attorney.

07/06/21: Answer and Opposition to the Post Conviction Writ filed by the
Churchill County District Attorney.

07/16/21: The Court issued an Order Dismissing Petition for Writ of
Habeas Corpus.

9-27-23 Order Denying Motion to Correct Illegal Sentence

1 10-11-23 Notice of Appeal filed on Order Denying Motion to Correct
2 Illegal Sentence.

3 11. Has the Case previously been the subject of an Appeal to or Original Writ Proceedings in
4 the Supreme Court? Yes No

5 If yes, provide caption and Supreme Court Docket Number of Prior Proceeding:

6 William Jacob Martin v. Perry Russell, 83315
7 Warden

8 12. Does the Appeal Involve Child Custody or Visitation Issues?

9 Yes No

10 13. If this is a Civil Case, Does the Appeal Involve the Possibility of Settlement?

11 Yes No

12 Dated this _____ Day of _____, 20____

13 Tiffany Josephs, Clerk of Court

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16 _____
17 Deputy Court Clerk
18 Tenth Judicial District Court
19 73 N. Maine Street
20 Fallon, NV. 89406
21 775-423-6088
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1 William J. Martin #95529

2 NNCC

3 PO Box 7000

4 Carson City, NV 89701

5 Defendant in pro se

6 Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain social security numbers.

FILED ORIGINAL
2023 OCT 16 PM 1:25
TIFFANY JOSEPHS
COURT CLERK
BY *Shelly Hopton* DEPUTY

7
8 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9 IN AND FOR THE COUNTY OF CHURCHILL

10
11 THE STATE OF NEVADA,

12 Plaintiff,

13 vs

14 WILLIAM MARTIN,

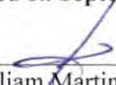
15 Defendant.

Case Nos 19-10DC-0289
19-10DC-0290

NOTICE OF APPEAL

16
17 Notice is given that Defendant William Martin, in pro se, appeals to the Nevada Supreme Court THE
18 ORDER DENYING MOTION TO CORRECT ILLEGAL SENTENCE as filed on **September 27, 2023**.

19 Dated this 12th day of October, 2023

20 
William Martin

21 Defendant pro se

RECEIVED OCT 16 2023

CERTIFICATE OF SERVICE

I hereby certify I mailed a true and correct copy of the foregoing **NOTICE OF APPEAL** via U.S. Mail

First Class pre-paid to the following:

Churchill County DA
165 N. Ada Street
Fallon, NV 89406
(atty for Plaintiff)

Dated this 12th day of October, 2023.



Debby Styles

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Case No. 19-10DC-0289

Dept. No. 1

FILED
2023 OCT 18 AM 11:33
TIFFANY JOSEPHS
COURT CLERK
BY *Shirley Hester* DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

WILLIAM JACOB MARTIN,
Appellant,

Vs.

THE STATE OF NEVADA,
Respondent.

CASE APPEAL STATEMENT

1. Name of Appellant filing this Case Appeal Statement:

Prepared by District Court Clerk on Behalf of:
William Jacob Martin

2. What Judge Issued Decision, Judgment or Order?

Judge Jim Shirley
Tenth Judicial District Court

3. Who is/are the Appellant(s) and Name and Address of Appellant(s) Counsel?

William Jacob Martin Pro Per
NNCC
P.O. Box 7000
Carson City, NV 89701

1 4. Who is/are Respondent(s) and Name and Address of Respondent(s) Counsel?

2 State of Nevada

Churchill County District Attorney

165 N. Ada Street

3 Fallon, NV 89406

4
5 5. Are Counsel not licensed to Practice Law in Nevada? Yes No

If the answer is yes, has counsel been granted permission to appear under SCT 42?

6 Yes No (Attach copy of District Court Order granting permission)

7 6. Was Appellant Represented by Appointed or Retained Counsel at District Court?

8 Appointed Counsel

9 Retained Counsel

10 No Counsel

11 7. Is Appellant Represented by Appointed or Retained Counsel on Appeal?

12 Appointed Counsel

13 Retained Counsel

14 No Counsel

15 8. Was Appellant Granted leave to Proceed in Forma Pauperis? Yes No

16 Date of Order:

17 9. When did the Proceedings Commence in the District Court? (i.e., date complaint,
18 indictment, information or petition was filed)

19 October 16, 2023

20 10. Provide Brief Description of Nature of Action; Result in District Court, Type of
21 Judgment or Order Being Appealed and Relief Granted by District Court: Counsel for
22 Appeal:

23 03/16/21: Petition for Writ of Habeas Corpus was filed (03/16/21).

24 05/20/21: The Court issued an Order Directing Response to the Churchill
County District Attorney.

25 06/28/21: Motion to Dismiss Post Conviction Writ as Untimely filed by
the Churchill County District Attorney.

26 07/06/21: Answer and Opposition to the Post Conviction Writ filed by the
Churchill County District Attorney.

27 07/16/21: The Court issued an Order Dismissing Petition for Writ of
Habeas Corpus.

28 9-27-23 Order Denying Motion to Correct Illegal Sentence

10-11-23 Notice of Appeal filed on Order Denying Motion to Correct
Illegal Sentence.

10-16-23 Notice of Appeal on Order Denying Motion to Correct Illegal
Sentence.

11. Has the Case previously been the subject of an Appeal to or Original Writ Proceedings in
the Supreme Court? Yes No

If yes, provide caption and Supreme Court Docket Number of Prior Proceeding:

William Jacob Martin v. Perry Russell, 83315
Warden

William Jacob Martin v. State of Nevada 87437

12. Does the Appeal Involve Child Custody or Visitation Issues?

Yes No

13. If this is a Civil Case, Does the Appeal Involve the Possibility of Settlement?

Yes No

Dated this 18th Day of October, 2023

Tiffany Josephs, Clerk of Court



Deputy Court Clerk
Tenth Judicial District Court
73 N. Maine Street
Fallon, NV. 89406
775-423-6088

RECEIVED OCT 19 2023

IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK

FILED

2023 OCT 19 AM 11:46

WILLIAM JACOB MARTIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 87437
District Court Case No. 19-10DC-0289

TIFFANY JOSEPHS
COURT CLERK
BY Shelley Neeter DEPUTY

RECEIPT FOR DOCUMENTS

TO: William Jacob Martin
Tiffany Josephs, Churchill County Clerk
Churchill County District Attorney/Fallon \ Arthur E. Mallory, District Attorney

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

10/13/2023 Appeal Filing Fee Waived. Criminal. (SC)
10/13/2023 Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day. (SC)

DATE: October 13, 2023

Elizabeth A. Brown, Clerk of Court
bc

00198

14

1 Case No. 19-10DC-0289/19-10DC-0290

2 Dept. I

FILED

2023 OCT 20 PM 2: 07

TIFFANY JOSEPHS
COURT CLERK

BY Kit Ehl DEPUTY

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6 **IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF CHURCHILL**

8 STATE OF NEVADA

9 Plaintiff,

10 vs.

11 WILLIAM JACOB MARTIN,

12 Defendant.

**ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL**

13
14 This matter is before the Court on Defendant WILLIAM JACOB MARTIN'S Motion
15 for Appointment of Counsel, filed on July 31, 2023. On June 5, 2023 the defendant filed a
16 Motion to Correct Illegal Sentence and on July 21, 2023 the defendant filed a Motion for
17 Modification of Sentence. Mr. Martins' Motions were each filed in proper person. On August
18 09, 2023, the State of Nevada filed a Response to Motion for Appointment of Counsel.

19 Considering the merits of the Motion, the Court finds it appropriate to DENY the
20 Motion. Under NRS 34.750, the Court may appoint counsel to represent a petitioner "if the
21 court is satisfied that the allegation of indigency is true and the petition is not dismissed
22 summarily." In making its determination, the Court may consider "the severity of the
23 consequences facing the petitioner," and whether "the issues presented are difficult," "the
24 petitioner is unable to comprehend the proceedings," or "counsel is necessary to proceed with
discovery." NRS 34.750. In this case, the matters to be resolved are not sufficiently complex to

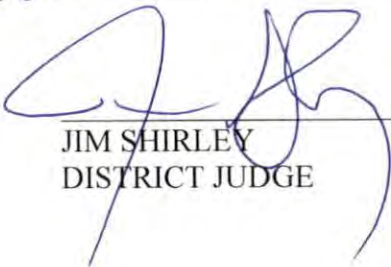
1 warrant appointment of counsel. Mr. Martins' Motions consist of a straightforward claim that
2 the sentence imposed at time of sentencing on June 25, 2019, was unjust due to a change in
3 legislation of Assembly Bill 236 that went into effect on July 01, 2019. Appointment of counsel
4 in this case is not mandatory and the Court does not find it appropriate.

5 **GOOD CAUSE APPEARING IT IS HEREBY ORDERED**

6 1. Mr. Martins' Motion for Appointment of Counsel is DENIED.

7 IT IS SO ORDERED.

8 Dated this 20th day of October 2023.

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10 
11 JIM SHIRLEY
12 DISTRICT JUDGE

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CERTIFICATE OF SERVICE

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that on the 20th day of October, 2023, I served the foregoing **ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL** on the parties, as noted below:

Lane R. Mills Esq.
Chief Deputy District Attorney
165 North Ada Street
Fallon, NV 89406

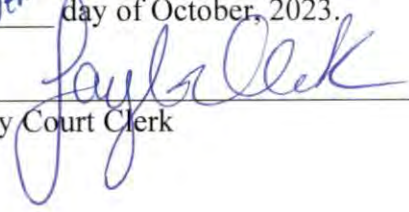
William Jacob Martin #95529
Northern Nevada Correctional Center
PO Box 7000
Carson City, NV 89702

DATED this 20th day of October, 2023.



Deputy Court Clerk

Subscribed and Sworn to before me
this 20th day of October, 2023.



Deputy Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK

FILED

2023 OCT 24 AM 9:34

WILLIAM JACOB MARTIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 87437
District Court Case No. 19-10DC-0269

TIFFANY JOSEPHS
COURT CLERK
BY Shelley Nook DEPUTY

RECEIPT FOR DOCUMENTS

TO: William Jacob Martin
Tiffany Josephs, Churchill County Clerk
Churchill County District Attorney/Fallon \ Arthur E. Mallory, District Attorney, Lane R.
Mills, Deputy District Attorney

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

10/20/2023 Filed Notice of Appeal/Amended/Supplemental. Proper Person
Second NOA. (SC)

DATE: October 20, 2023

Elizabeth A. Brown, Clerk of Court
bc

RECEIVED OCT 24 2023

IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED
2023 NOV 15 PM 12: 28

WILLIAM JACOB MARTIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

TIFFANY JOSEPHS
COURT CLERK No. 87437
BY J. Bennett DEPUTY

WILLIAM JACOB MARTIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87472

FILED

NOV 13 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY E. Brown
DEPUTY CLERK

*ORDER CONSOLIDATING APPEALS, DIRECTING TRANSMISSION
OF RECORD, AND REGARDING BRIEFING*

These appeals involve the same parties and counsel and arise from related district court cases. Accordingly, these appeals are hereby consolidated. NRAP 3(b)(2).

This court has concluded that its review of the complete record is warranted. See NRAP 10(a)(1). Accordingly, the clerk of the district court shall have 30 days from the date of this order to transmit to the clerk of this court a certified copy of the complete trial court records of these appeals (19-10DC-0289 and 19-10DC-0290). See NRAP 11(a)(2). The records shall include copies of documentary exhibits submitted in the district court proceedings, but shall not include any physical, non-documentary exhibits or the original documentary exhibits. The records shall also include any presentence investigation reports submitted in a sealed envelope identifying the contents and marked confidential. See NRS 176.156(5).

RECEIVED NOV 15 2023

Within 120 days, appellant may file either (1) a single brief that complies with the requirements in NRAP 28(a) and NRAP 32; or (2) a single "Informal Brief Form for Pro Se Parties" provided by the supreme court clerk. NRAP 31(a)(1). If no brief is submitted, the appeals may be decided on the records on appeal. NRAP 34(g). Respondent need not file a response to any brief filed by appellant, unless ordered to do so by this court. NRAP 46A(c). This court generally will not grant relief without providing an opportunity to file a response. *Id.*

It is so ORDERED.

Stiglm

_____, C.J.

cc: William Jacob Martin
Attorney General/Carson City
Churchill County District Attorney/Fallon
Churchill County Clerk

RECEIVED MAR 16 2021

William Martin

(Name)

95529

(I.D. Number)

Northern Nevada Correctional Center
Post Office Box 7000
Carson City, NV 89702

FILED

2021 MAR 16 PM 12:52

SUE SEVON
COURT CLERK

BY J. Benning
DEPUTY

Petitioner, In Proper Person

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CHURCHILL

William Martin

Petitioner,

Case No.: 19-10DC-0289A

Dept. No.: 1

vs.

Perry Russell, et al.

Respondent.

**PETITION FOR WRIT OF HABEAS
CORPUS (POST-CONVICTION)**
(Non Death Penalty)

INSTRUCTIONS:

1. This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.
2. Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
3. If you want an attorney appointed, you must complete the Affidavit in Support of Motion for Leave to Proceed In Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
4. You must name as Respondent the person by whom you are confined or restrained. If you are in a specific institution of the department of corrections, name the warden or head of the

1 institution. If you are not in a specific institution of the department but within its custody, name the
2 director of the department of corrections.

3 (5) You must include all grounds or claims for relief which you may have regarding your
4 conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing
5 future petitions challenging your conviction and sentence.

6 (6) You must allege specific facts supporting the claims in the petition you file seeking
7 relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions
8 may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of
9 counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you
10 claim your counsel was ineffective.

11 (7) When the petition is fully completed, the original and copy must be filed with the
12 clerk of the state district court for the county in which you were convicted. One copy must be mailed
13 to the respondent, one copy to the attorney general's office, and one copy to the district attorney of
14 the county in which you were convicted or to the original prosecutor if you are challenging your
15 original conviction or sentence. Copies must conform in all particulars to the original submitted for
16 filing.

17 PETITION

18 1. Name of institution and county in which you are presently imprisoned or where and
19 how you are presently restrained of you liberty: WVNC - Cabell County

20 2. Name and location of court which entered the judgment of conviction under attack:
21 Tenth Jud. Dist. Ct. - Churchill County

22 3. Date of judgment of conviction: June 25, 2014

23 4. Case Number: 19-10DC-0289

24 5. (a) Length of sentence: Two consecutive sentences of
25 3 to 10 years.

1 6. Are you presently serving a sentence for a conviction other than the conviction under
2 attack in this motion? Yes _____ No ✓

3 If "yes", list crime, case number and sentence being served at this time:

4 N/A

5 7. Nature of offense involved in conviction being challenged: _____

6 Burglary - Commercial

7
8 8. What was your plea? (check one)

9 (a) Not guilty _____ (c) Guilty but mentally ill _____

10 (b) Guilty ✓ (d) Nolo contendere _____

11 9. If you entered a plea of guilty to one count of an indictment or information, and a
12 plea of not guilty to another count of an indictment of information, or if a plea of guilty was
13 negotiated, give details: Per plea negotiations petitioner

14 plead guilty to two counts of Burglary in exchange for
15 the other charges against him be dismissed.

16
17 10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

18 (a) Jury N/A

19 (b) Judge without a jury N/A

20 11. Did you testify at the trial? Yes N/A No N/A

21 12. Did you appeal from the judgment of conviction?

22 Yes _____ No ✓

23 13. If you did appeal, answer the following:

24 (a) Name of court: N/A

25 (b) Case number or citation: N/A

26 (c) Result: N/A

27 (d) Date of result: N/A

28 (Attach copy of order or decision, if available)

14. If you did not appeal, explain briefly why you did not:

Petitioner was deprived of his right to direct appeal by his trial counsel's ineffective assistance of counsel i.e., counsel failed to advise him of his appeal rights and failed to perfect his appeal for him.

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes N/A No N/A

16. If you answer to No. 15 was "yes," give the following information:

- (a) (1) Name of court: N/A
- (2) Name of proceeding: N/A
- (3) Grounds raised: N/A
- N/A
- N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes N/A No N/A

- (5) Result: N/A
- (6) Date of result: N/A

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: N/A

(b) As to any second petition, application or motion, give the same information:

- (1) Name of court: N/A
- (2) Nature of proceeding: N/A
- (3) Grounds raised: N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes N/A No N/A

- (5) Result: N/A
- (6) Date of result: N/A

1 (7) If known, citations of any written opinion or date of orders entered
2 pursuant to such result: N/A

3 (c) As to any third or subsequent additional applications or motions, give the
4 same information as above, list them on a separate sheet and attach.

5 (d) Did you appeal to the highest state or federal court having jurisdiction, the
6 result or action taken on any petition, application or motion?

7 (1) First petition, application or motion?

8 Yes _____ No

9 (2) Second petition, application or motion?

10 Yes _____ No

11 (3) Third or subsequent petitions, applications or motions?

12 Yes _____ No

13 Citation or date of decision. N/A

14 (e) If you did not appeal from the adverse action on any petition, application or
15 motion, explain briefly why you did not. (You must relate specific facts in response to this question.
16 Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your
17 response may not exceed five handwritten or typewritten pages in length)

18 N/A

19 N/A

20 N/A

21 17. Has any ground being raised in this petition been previously presented to this or any
22 other court by way of petition for habeas corpus, motion, application or any other post-conviction
23 proceeding? If so, identify:

24 (a) Which of the grounds is the same: N/A

25 N/A

26 N/A

27
28 (b) The proceedings in which these grounds were raised: N/A

N/A

N/A

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

N/A

18. If any of the grounds listed in Nos. 23(a, (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

N/A

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

See Accompanying Memorandum of Points And Authorities, at pp. 13-14, filed contemporaneously with this petition

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes N/A No N/A

If yes, state what court and the case number: N/A

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: Charles Woodman, Peter Smith, and Sean Neuhuser.

1
2
3 22. Do you have any future sentences to serve after you complete the sentence imposed
4 by the judgment under attack:

5 Yes _____ No

6 23. State concisely every ground on which you claim that you are being held unlawfully.
7 Summarize briefly the facts supporting each ground. If necessary you may attach pages stating
8 additional grounds and facts supporting same.

9 (a) Ground One:

10 Petitioner's Guilty Plea Was Entered Without Effective Assistance
11 Of Counsel In Violation Of His Right To Effective Assistance Of Counsel,
12 As Guaranteed By The United States Constitution, And The Fifth
13 And Fourteenth And Sixth Amendments.

14 Supporting Facts:

- 15 1) Petitioner's trial counsel knew of several reports and other information
16 that clearly supported an insanity defense for petitioner.
17 2) Despite trial counsel's actual knowledge that petitioner was legally
18 insane at the time he offended, trial counsel advised him to plead
19 guilty without first advising him of his statutory right to an
20 insanity defense and without first obtaining a competent psychiatrist
21 to assist petitioner in the evaluation, preparation, and presentation
22 of the insanity defense and/or to assist at sentencing.
23 3) See accompanying Memorandum of Points and
24 Authorities filed contemporaneously with this petition
25 at pp. 2-8, for more in depth facts concerning this ground.
26
27
28

1 (b) Ground Two: Martin's Trial Counsel Failed To Investigate
2 Martin's Competency To Enter A Plea Of guilty In Violation Of
3 His Right To Effective Assistance Of Counsel, As Guaranteed By
4 The United States Constitution, And The Fifth And Fourteenth
5 And Sixth Amendments.

6 Supporting Facts:

7 1) Martin's trial counsel knew that Martin was suffering
8 from PTSD and depression (psychotic) during his plea hearings;
9 nevertheless, Martin's trial counsel failed to investigate Martin's
10 competency to enter his plea of guilty in this case.

11 2) Martin's trial counsel knew Martin's mental illness was
12 affecting his ability to consult with counsel and understand the
13 proceedings against him and, still failed to obtain a
14 competent psychiatrist to assess Martin's competency to
15 stand trial.

16 3) Martin was not mentally competent when he entered
17 his plea of guilty in this case and, therefore, he did not
18 knowingly and intelligently waive his rights at the time
19 of his guilty plea.

20 4) Martin's guilty plea is invalid and should be withdrawn.

21 5) See Accompanying Memorandum of Points and Authorities In
22 Support of Petition For Writ of Habeas Corpus (Post-conviction),
23 filed contemporaneously with this petition at pp. 8, 9, for more
24 in depth facts concerning this ground

1 (c) Ground Three: Martin's Trial Counsel Failed To Present Mitigating
2 Evidence At Sentencing, With The Assistance Of A Competent
3 Psychiatrist, In Violation Of His Right To Effective Assistance
4 Of Counsel, As Guaranteed By The United States Constitution,
5 And The Fifth And Fourteenth And Sixth Amendments.

6 Supporting Facts:

7 1) Martin's Trial Counsel knew from a report that Martin suffered
8 severe emotional, physical and sexual abuse as a child.

9 2) Martin's trial counsel knew that Martin suffered from
10 PTSD and depression (with psychotic features); nevertheless,
11 Martin's trial counsel failed to obtain a competent psychiatrist
12 to assist him at sentencing with the above mentioned
13 mitigating evidence.

14 3) Had Martin's trial counsel presented the mitigating
15 circumstances, with the assistance of a competent
16 psychiatrist, at Martin's sentencing hearing, there
17 is a strong likelihood that Martin would have
18 received concurrent instead of consecutive sentences.

19 4) See the Accompanying Memorandum of Points and Authorities
20 In Support of Petition for Writ of Habeas Corpus (Post-conviction),
21 filed contemporaneously with this petition at pp. 9, 10,
22 for more in depth facts concerning this ground.

1 (b) Ground **FOUR**

2 Martin's Trial Counsel Failed To Consult With Him And Failed To
3 Perfect His Right To Direct Appeal In Violation Of His Right To Effective
4 Assistance Of Counsel, As Guaranteed By The United States Constitution,
5 And The Fifth And Fourteenth And Sixth Amendments

6 Supporting Facts:

7 1) Petitioner had non-frivolous grounds for direct appeal.

8 2) Petitioner requested that his trial counsel file his direct appeal
9 for him.

10 3) Petitioner was denied his right to direct appeal because, his trial
11 counsel failed to consult with him and failed to perfect his direct
12 appeal for him.

13 4) Petitioner never gave a knowing, intelligent, and/or voluntary
14 waiver of his direct appeal rights.

15 5) See accompanying Memorandum of Points and Authorities
16 In Support Of Petition For Writ of Habeas Corpus (post-conviction)
17 filed contemporaneously with this petition at pp. 10-12,
18 for more in depth facts concerning this ground.

1 (d) Ground **Five**

2 Petitioner can demonstrate good cause and prejudice to
3 excuse the untimely filing of the instant petition.
4 _____
5 _____

6 Supporting Facts:

7 1) See accompanying Memorandum of Points and Authorities In
8 Support of Petition for Writ of Habeas Corpus (Post-Conviction)
9 at pp. 13, 14, being filed contemporaneously with this petition,
10 for more in depth facts concerning this procedural ground.
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1 (e) Ground ~~Five~~ **Six**


2 Petitioner Is Entitled To An Evidentiary Hearing
3 On The Instant Petition For Writ Of Habeas Corpus
4 (Post-Conviction).

5
6 Supporting Facts:

7 1) See Accompanying Memorandum Of Points and Authorities
8 In Support of Petition for Writ of Habeas Corpus (Post-Conviction)
9 filed ~~contemporaneously~~ with this petition at p. 14, for
10 more in depth facts concerning this formal request
11 for an evidentiary hearing on the instant petition.
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1 WHEREFORE, petitioner prays that the court grant petitioner
2 Relief to which he may be entitled in this proceeding.

3 EXECUTED at Carson City , Nevada on the 11th
4 Day of March , 2021.

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9 William Martin #95529
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VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.



Petitioner

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS to the below addresses on this 11th day of March 2021, by placing the same into the hands or prison law library staff for posting in the U.S. Mail, pursuant to

N.R.C.P. 5:

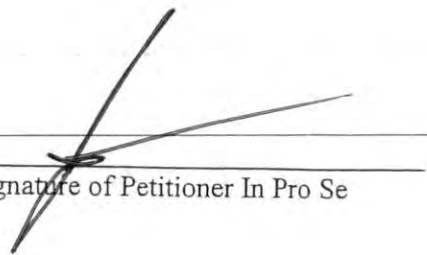
Perry Russell
1721 Snyder Ave.
Carson City, NV 89701

Lane Mills, Esq.
Churchill County District Attorney
165 Ada Street
Fallon, NV 89406

Amor
~~Eara~~ Ford

Attorney General
100 North Carson Street

Carson City _____, Nevada 89 701



Signature of Petitioner In Pro Se

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document. Petition For
Writ Of Habeas Corpus (Post-Conviction)

(Title of Document)

filed in case number: 19-10DC-0289, Tenth Jud. Dist Ct.

Document does not contain the social security number of any person

-OR-

Document contains the social security number of a person as required by:

A specific state or federal law, to wit:

(State specific state or federal law)

-or-

For the administration of a public program

-or-

For an application for a federal or state grant

-or-

Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS125B.055)

Date: 3-11-21

[Signature]
(Signature)

William Martin # 95529
(Print Name)

Pro Se
(Attorney for)

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM JACOB MARTIN,)
) APPELLANT,)
vs.)
THE STATE OF NEVADA,)
) RESPONDENT.)
_____)

SUPREME COURT NO. 87437
DC CASE NO. 19-10DC-0289

**RECORD ON APPEAL
VOLUME
4**

ATTORNEY FOR APPELLANT
WILLIAM JACOB MARTIN, PRO PER
NORTHERN NV CORRECTIONAL CENTER
P.O. BOX 7000
CARSON CITY, NV 89702

ATTORNEY FOR RESPONDENT
LANE MILLS, ESQ.
CHIEF DEPUTY DISTRICT ATTORNEY
165 N. ADA STREET
FALLON, NV 89406

#19-10DC-0289 - STATE OF NEVADA vs. WILLIAM JACOB MARTIN
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10/2

RECEIVED MAR 16 2021

William Martin #95529

FILED

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SUE SEVON
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Carson City, NV 89702

BY J. Deeney DEPUTY

Petitioner In Pro Se

Tenth Judicial District Court
Churchill County

William Martin,
Petitioner,
vs.
Perry Russell, et al.,
Respondents,

Case No 19-100C-0289A
Dept. No. 1

Memorandum Of Points And Authorities
In Support Of
Petition For Writ Of Habeas Corpus
(Post-Conviction)

Petitioner William Martin ("Martin") hereby submits his Memorandum of Points and Authorities in Support of Petition For a Writ of Habeas Corpus, post-conviction, filed pursuant to NRS 34.720 et seq.

Points And Authorities

I. Statement Of The Case

From 2017 to 2018 Martin was arrested and

charged with multiple felony offenses (See Exhibit "A," at pp. 4-6, attached hereto). Martin initially entered a plea of not guilty to all of the abovementioned charges, however, he later entered a plea of guilty to two counts of Burglary pursuant to a plea agreement. Martin was subsequently sentenced to, inter alia, two consecutive terms of 3 to 10 years in the Nevada Department of Corrections ("NDOC") (See Exhibit B, at p. 2, attached hereto.).

On May 15, 2020, Martin filed a Motion For Extension of Time to litigate the instant case, i.e., to prepare and file his Petition For Writ of Habeas Corpus (See Exhibit "C," attached hereto.). As of the date of filing the instant petition, Martin has still not received a Court ruling on his Motion For Extension Of Time; thereby, establishing good cause for Martin's untimely filing of the instant petition. See Section E, *Infra*.

As the following arguments demonstrate, state judicial review of Martin's claims is required because, he can show that failure to consider them will result in a fundamental miscarriage of justice.

II. Argument

A. Martin's guilty Plea Was Entered Without Effective Assistance Of Counsel In Violation Of His Right To Effective Assistance Of Counsel, As Guaranteed By The United States Constitution, And The Fifth And Fourteenth And Sixth Amendments.

Martin assents that his trial counsel was ineffective for advising him to plead guilty to two counts of Burglary, with two consecutive sentences of 3 to 10 years, without first advising him of his statutory right to an insanity defense, without first obtaining a competent psychiatrist to evaluate his mental state at the time of the alleged crimes, and without first obtaining a psychiatrist to assist him in the evaluation, preparation and presentation of the insanity defense and/or to assist at sentencing.

The Sixth Amendment guarantees the right to effective assistance of counsel in criminal prosecutions. McMann v. Richardson, 397 U.S. 759, 771 n.14 (1970). That right applies to both retained and appointed counsel. Cuyler v. Sullivan, 446 U.S. 335, 344-45 (1980). In Strickland v. Washington, 466 U.S. 668, 687-88 (1984), the United States Supreme Court established a two prong test with which to evaluate ineffective assistance of counsel claims: One, did counsel's performance fall below an objective standard of reasonableness; and two, did counsel's deficient performance prejudice the defendant resulting in an unreliable or fundamentally unfair outcome.

The facts in the instant case clearly demonstrate that Martin was denied effective assistance of counsel.

First, Martin's trial counsel knew that Martin suffered from severe mental illness and had be diagnosed with Post Traumatic Stress Disorder (PTSD), depression, anxiety and insomnia. (See Exhibit "A," at p.3, attached hereto.). In addition, Martin's trial counsel knew that Martin was also under the influence

of methamphetamine at the time he allegedly offended. Methamphetamine is a known trigger for inducing symptoms of mania and/or exacerbating an existing manic state in people like Martin who already have an Affective Disorder.

Second, Martin's trial counsel also knew that, at the times Martin allegedly offended, his behavior was consistent with his long term mental illness and with the substance he was using (methamphetamine) and included thought disorder (delusions and hallucinations involving persecutory themes) and with direct impact of significant substance ingestion (amnesia, ultimately partial but apparently never recovering to include the acts themselves, in their entirety).

Third, Martin's trial counsel knew that at the times Martin allegedly offended, he had been experiencing significant periods of sleeplessness (four to five days); Poor sleep is known to trigger and/or exacerbate the symptoms of Martin's PTSD and those of his long term Affective Disorder.

Finally, Martin's trial counsel knew that at the time of Martin's arrest, he was experiencing auditory hallucinations, paranoid ideation, psychomotor agitation, and severe instability of mood, and was likely legally insane at the times he allegedly offended.

The record (Exhibit A, at p.3.) demonstrates that Martin's trial counsel knew or should have known that Martin

had a statutory right to the defense of insanity and a constitutional right to be provided with a competent psychiatrist to evaluate his sanity at the time of the alleged crimes and to assist with the insanity defense before, during and after trial (i.e., at sentencing).

In the instant case, there were abundant signs in the record that Martin suffered from severe mental illness and was legally insane at the time of the alleged crimes. Nevertheless, Martin's trial counsel failed to conduct even a minimal investigation, with the assistance of a competent psychiatrist, in order to make an informed decision regarding the possibility of a defense based on Martin's legal insanity at the time of the alleged crimes and, therefore, neglected to pursue a potentially successful defense. In the instant case, Martin's trial counsel's performance was grossly deficient. See e.g., *Jennings v. Woodford*, 290 F.3d 1006, 1012-20 (9th Cir. 2002) (trial counsel's deficient performance in failing to investigate defendant's history of mental illness and drug abuse for purposes of determining possibility of mental defense strategy prejudiced defendant); *Seidel v. Menkle*, 146 F.3d 750, 756 (9th Cir. 1998) (counsel was ineffective for failing to conduct even a minimal investigation in order to make an informed decision regarding the possibility of a defense based on defendant's mental illness); *Dumas v. State*, 903 P.2d 816, 817 (Nev. 1995) (counsel's failure to investigate and present defendant's mental condition as defense constituted ineffective assistance of counsel).

The evidence in the record will demonstrate that Martin was legally insane at the time of the alleged crimes, and that, he was unable to form the requisite criminal intent or mens rea to justify a burglary conviction in the instant case. (See Exhibit "E," attached hereto).

Martin's trial counsel advised him to plead guilty to two counts of burglary, with recommended consecutive sentences of 3 to 10 years, without first advising him of his statutory right to an insanity defense, without first obtaining a competent psychiatrist to evaluate his mental state at the time of the alleged crimes, and without first obtaining a psychiatrist to assist him in the evaluation, preparation, and presentation of the insanity defense and/or to assist at sentencing.

Martin clearly meets both prongs of the Strickland test. First, Martin's trial counsel's performance fell far below reasonable. *Ake v. Oklahoma*, 470 U.S. 68 (1985), provides that Martin has a constitutional right to a competent psychiatrist's assistance; yet, Martin's trial counsel failed to assert that right or obtain a knowing and voluntary waiver from Martin of that constitutional right (See Section B, *Infra*). Second, Martin suffered a fundamentally unfair outcome - he is serving two consecutive 3 to 10 year sentences. Had Martin known that he could have pleaded not guilty by reason of insanity, he would have insisted on a trial. See *Hill v. Lockhart*,

474 U.S. 52, 59 (1985); and see e.g., Fry v. Caspari, 173 F.3d 1136, 1142 (8th Cir. 1999) (guilty plea to charge of second degree murder was not knowingly and voluntarily entered, where counsel failed to inform defendant of possible defense of mental illness, and counsel failed to bring to court's attention a psychiatric report indicating mental illness); U.S. v. Kauffman, 109 F.3d 186, 190-91 (3d. Cir. 1997) (counsel's failure to investigate into the insanity defense after having seen letter from psychiatrist stating that defendant was manic and psychotic when he committed the crime, before advising defendant to plead guilty constitutes ineffective assistance of counsel); and McLoy v. Wainwright, 804 F.2d 1196, 1198-99 (11th Cir. 1986) (trial counsel's failure to investigate possible insanity defense renders guilty plea involuntary, if facts support defense and, constitutes ineffective assistance of counsel).

Finally, Martin contends that, if this Court fails to consider this claim of ineffective assistance of counsel, it will result in a fundamental miscarriage of justice. The existing evidence in the record demonstrates that Martin was legally insane at the time of the alleged crime. Therefore, due to the ineffective assistance of his trial counsel, Martin was unconstitutionally deprived of an acquittal on grounds of insanity and, "it is more likely than not that no reasonable juror would have convicted

[Martin] absent [this] constitutional violation." Pellegrini v. State, 34 P.3d 519, 537 n.123 (Nev. 2001) (citing Schlup v. Delo, 513 U.S. 298, 327, 115 S.Ct. 851, 130 L.Ed. 808 (1995)).

B. Martin's Trial Counsel Failed To Investigate Martin's Competency To Enter A Plea Of Guilty In Violation Of His Right To Effective Assistance Of Counsel, As Guaranteed By The United States Constitution, And The Fifth And Fourteenth And Sixth Amendments.

Martin contends that his trial counsel was ineffective for failing to investigate into his competency to enter a plea of guilty in this case. Martin's trial counsel had notice of Martin's long, diagnosed history of PTSD, depression, and long term, chronic use of methamphetamine. And, Martin's trial counsel personally observed Martin's bizarre behavior on several occasions prior to entering his plea of guilty in this case. (See Exhibits "A," "D," and "E," attached hereto).

A mentally incompetent defendant cannot knowingly and intelligently waive his rights. See Pate v. Robinson, 383 U.S. 375 (1966). Once trial counsel has notice of the defendant's mental illness affecting his ability to consult with counsel and understand the proceedings against him, counsel then has a constitutionally imposed duty to investigate into the defendant's competency to enter a plea. See e.g., Bouchillon v. Collins, 907 F.2d at 593 (counsel was ineffective for failing to

investigate into defendant's competency to enter a plea, after receiving notice that the defendant had a history of hospitalizations for PTSD).

Here, as stated above, Martin's trial counsel was on notice that there were reports in the record showing that Martin suffered from PTSD, depression, and long term, chronic use of methamphetamine. Furthermore, Martin's trial counsel has personally witnessed Martin's bizarre behavior on several occasions during his consultations with him. Nevertheless, despite the abovementioned signs that Martin suffered from severe mental illness, his trial counsel failed to investigate into Martin's competency to enter a plea. Had trial counsel done so, he would have discovered that Martin was, in fact, mentally incompetent at the time he entered his plea of guilty in this case. Therefore, Martin's guilty plea should be withdrawn.

C. Martin's Trial Counsel Failed To Present Mitigating Evidence At Sentencing, With The Assistance Of A Competent Psychiatrist, In Violation Of His Right To Effective Assistance Of Counsel, As Guaranteed By The United States Constitution, And The Fifth And Fourteenth And Sixth Amendments.

All of the facts contained in Sections A and B, supra, are incorporated herein by reference as if fully set forth in support of this claim of

constitutional error.

Martin contends that his trial counsel failed to investigate and present considerable evidence regarding his psychological and family history, that would have provided sufficient mitigating evidence to warrant concurrent sentences, instead of the consecutive sentences that Martin received.

Martin's trial counsel knew that Martin suffered severe emotional, physical and sexual abuse as a child. The record also shows that Martin has a long, diagnosed history of PTSD, depression, and long term, chronic use of methamphetamine. However, Martin's trial counsel failed to obtain a competent psychiatrist to evaluate him for the purpose of presenting mitigating evidence at Martin's sentencing hearing.

Therefore, Martin's trial counsel was ineffective at his sentencing hearing because, it's likely that the outcome of his sentencing would have been different, had his counsel not rendered ineffective assistance and obtained a competent psychiatrist to assist at Martin's sentencing hearing. See *Ake v. Oklahoma*, 470 U.S. 68 (1985); and *Jennings v. Woodford*, 290 F.3d at 1012-20.

D. Martin's Trial Counsel Failed To Consult With Him And Failed To Perfect His Right To Direct Appeal In Violation Of His Right To Effective

Assistance Of Counsel, As Guaranteed By
The United States Constitution, And The Fifth
And Fourteenth And Sixth Amendments.

All of the facts contained in Sections A, B and C, supra, are incorporated herein by reference as if fully set forth in support of this claim of constitutional error.

Under Nevada law, a criminal defendant has the right of direct appeal from a judgment of conviction. NRS 177.015. This right of direct appeal includes the right to appeal from judgments of convictions obtained by guilty pleas. See Franklin v. State, 877 P.2d 1058 (Nev. 1994). Martin was denied this right because his trial counsel failed to consult with him and failed to perfect his direct appeal for him.

In Roek v. Flores-Ortega, 120 S.Ct. 1029 (2000), the United States Supreme Court applied the Strickland ineffective assistance of counsel standard to cases involving counsel's failure to file notice of appeal. Specifically, the United States Supreme Court held as follows:

"We instead hold that counsel has a constitutionally-imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nontrivial grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing."

Roe v. Flores-Ortega, 120 S.Ct. at 1036. Application of Roe v. Flores-Ortega, to the facts of the present case show that Martin was denied his Sixth Amendment right to effective assistance of counsel because his trial counsel failed to consult with him and failed to perfect direct appeal for him.

Martin's trial counsel knew or should have known that Martin had a statutory right to an insanity defense, and that, he also had a constitutional right to have a competent psychiatrist appointed to evaluate him regarding his sanity at the time of the alleged crimes and to assist with the insanity defense before, during, and after trial. After all, this was a serious felony case, and Martin's trial counsel had to have been sufficiently experienced; yet, Martin's trial counsel failed to assert these statutory and constitutional rights or obtain a knowing and voluntary waiver from Martin of these statutory and constitutional rights. (See Section A, supra.).

Thus, advising Martin to enter into a plea agreement that deceptively waived his right to appeal the deprivation of the aforementioned statutory and constitutional rights, that his trial counsel failed to inform him he had, could not possibly constitute a knowing intelligent, and/or voluntary waiver of his right to direct appeal. Martin had non frivolous grounds for appeal and any rational defendant would have wanted to appeal this case. Under Roe v. Flores-Ortega, Martin was denied his Sixth Amendment right to effective assistance of counsel because ~~his~~ his trial ^{counsel} failed to consult with him and failed to perfect his direct appeal for him.

E. Martin Can Demonstrate Good Cause And Prejudice
To Excuse The Untimely Filing Of The Instant
Petition.

Martin asserts that he is timely in his filing of the instant petition because, his Motion For Extension Of Time is still pending in this Court (see Exhibit "C," attached hereto.).

However, assuming arguendo, that the instant petition is untimely, Martin can still satisfy the cause and prejudice standard set forth in NRS 34.726 (i)(a)(b).

Martin's habeas petition was due no later than June 25, 2020. However, in March of 2020, due to the coronavirus, Northern Nevada Correctional Center, where Martin is housed, was put on quarantine, and the prison law library was temporarily closed. Because Martin had no adequate access to legal research materials and no adequate access to inmate law clerks, he was unable to prepare and file his habeas petition. Thus, he filed a Motion For Extension Of Time on May 15, 2020, and, has still not received a decision from this Court on the motion.

Martin contends that the coronavirus and the subsequent quarantine-lockdown at the prison, that has deprived him of adequate legal access, and this Court's delay in answering his Motion For Extension Of Time, constitute good cause for the delayed filing of his

habeas petition (Martin contracted the coronavirus himself too).

As the facts and circumstances are set forth in Sections A-D, supra, it is clear that Martin would be significantly prejudiced if his petition were to be deemed untimely and not heard on the merits.

Accordingly, Martin's habeas petition should be accepted by this Court and heard on its merits

F. Martin Is Entitled To An Evidentiary Hearing On His Habeas Petition.

All of the facts contained in Sections A-E, supra, are incorporated herein by reference as if fully set forth in support of this request for an evidentiary hearing on the instant petition.

An evidentiary hearing is warranted because: (1) Martin has raised meritorious challenges to the validity of his guilty plea, and (2) Martin has made a colorable showing that he is actually innocent of the crimes that he was unlawfully convicted of in the instant case.

III. Conclusion

For the foregoing reasons, Martin requests that this court grant him the relief requested in his Petition For Writ Of Habeas Corpus.

Respectfully Submitted, this 11th day of March, 2021.

BY: _____

William Martin #95529

Petitioner In Pro Se

Certificate Of Service By Mail

I, William Martin, hereby certify pursuant to N.R.C.P. 5(b), that on this 11th day of the month of ~~February~~^{March}, 2021, I mailed a true and correct copy of the foregoing Memorandum of Point And Authorities In Support Of Petition For Writ Of Habeas Corpus (Post-Conviction), addressed to:

Perry Russell
1721 Snyder Ave.
Carson City, NV 89701

Lane Mills
Churchill County District Attorney
165 Ada Street
Fallon, NV 89406

Erin Ford, Attorney General
100 N. Carson Street
Carson City, NV 89701

Signed By:


William Martin # 95529

EXHIBIT A

Presentence Investigation Report

EXHIBIT A

Document Filed Under Seal

Document: Pre-Sentence
Investigation Report

Filed: Not a filed document – received

Bate Stamped Pages: 236 – 244

****See Separate Certified Mailing****
Confidential Envelope

EXHIBIT B

Judgment Of Conviction

EXHIBIT B

JAP

FILED

2019 JUN 25 PM 2: 54

1 Case No. 19-10DC-0289

2 Dept. No. 1

SUE SEVON
COURT CLERK

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4 The undersigned hereby affirms that
this document does not contain the
social security number of any person.

BY Benning DEPUTY

5
6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF CHURCHILL

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

JUDGMENT OF CONVICTION

11 WILLIAM JACOB MARTIN,

12 Defendant.

13
14 On the 18th day of April, 2019, the above-named Defendant, WILLIAM JACOB
15 MARTIN, Date of Birth: August 14, 1983, Place of Birth: Jackson, Mississippi, entered a plea
16 of guilty to the crime(s) of: **COUNT 1, Burglary, a Category B Felony, in violation of NRS**
17 **205.060(2).**

18 Further, that at the time the Defendant entered the plea of guilty, this Court informed
19 the Defendant of the privilege against compulsory self-incrimination, the right to a speedy trial,
20 the right to a trial by jury, the right to compulsory process to compel witnesses to testify on
21 behalf of the Defendant, and the right to confront the accusers. That after being so advised, the
22 Defendant stated that these rights were understood and still desired this Court to accept the plea
23 of guilty.

24 Further, that at the time the Defendant entered a plea of guilty, and at the time of
25 sentencing, the Defendant was represented by an attorney, CHARLES B. WOODMAN, or the
26 duly appointed representative; also present in Court were the Churchill Court Clerk, or the duly
27 appointed representative, the Sheriff of Churchill County, or the duly appointed representative,
28 the District Attorney of Churchill County, Nevada, or the duly appointed representative.

1 representing the State of Nevada; and the Operations Supervisor, or the duly appointed
2 representative, representing the Division of Parole and Probation.

3 The Court having accepted the Defendant's plea of guilty, and having set the date of
4 June 20, 2019, as the date for imposing judgment and sentence and the Defendant having
5 appeared at such time, represented by counsel, and the Defendant having been given the
6 opportunity to exercise the right of allocution, and having shown no legal cause why judgment
7 should not be pronounced at that time.

8 This Court thereupon pronounced WILLIAM JACOB MARTIN guilty of:
9 **COUNT 1, Burglary, a Category B Felony, in violation of NRS 205.060(2).**

10 In accordance with the applicable statutes of the State of Nevada this Court sentenced
11 the Defendant to:

12 ON COUNT 1: imprisonment in the Nevada State Prison for a minimum term of 36
13 months, with a maximum term of 120 months, and a minimum parole eligibility of 36
14 months, consecutive to Tenth Judicial District Court Case Number 18-10DC-0049 and
15 to Second Judicial District Court Case Number CR18-0761.

16 In addition, said Defendant shall pay:

- 17 1. Restitution in the amount of Three Thousand Fifty-six Dollars and Thirty-five
18 Cents (\$3,056.35) to Nevada Division of Parole & Probation.
- 19 2. An Administrative Assessment Fee in the amount of Twenty-five Dollars (\$25.00)
20 to Tenth Judicial District Court.
- 21 3. A Chemical Analysis Fee in the amount of Three Dollars (\$3.00) to Tenth Judicial
22 District Court.

23 ///

24 ///

25 ///

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28 ///

1 Pursuant to NRS 176.0913, Defendant must submit a biological specimen to determine
2 genetic markers and/or secretor status.

3 Therefore, the Clerk of the above-entitled Court is hereby directed to enter the
4 Judgment of Conviction as a part of the record in the above-entitled matter. The Clerk of the
5 Court is further ordered to provide Defendant's Exhibit #A and #B that were presented at
6 Sentencing and forward them to the Nevada Department of Corrections in a sealed envelope to
7 assist and be considered in the Defendant's rehabilitation.

8
9 DATED: This 25th day of June, 2019.

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DISTRICT COURT JUDGE

EXHIBIT C

*Motion Requesting Extension Of Time Based
On Extraordinary Circumstances*

EXHIBIT C

RECEIVED MAY 15 2020

1 YOUR NAME: William Martin
2 INMATE I.D.# 95529
3 ADDRESS: P.O. Box 7000
4 CITY, STATE, ZIP: Carson City, NV, 89702
5 IN PRO PER

FILED
2020 MAY 15 AM 11:54
SUE BY VON
COURT CLERK
BY: Benningford

6 Tenth Judicial District Court

COURT NAME

8 Churchill County

9 DIVISION, DISTRICT, ETC.

13 YOUR NAME: William Martin
14 Petitioner, Plaintiff,
15
16 vs.
17 WARDEN'S NAME: Perry Russell
18 Defendant

Case No.: 19-10DC-0290
19-10DC-0289
MOTION REQUESTING EXTENSION OF
TIME BASED ON EXTRAORDINARY
CIRCUMSTANCES

20 TO WHOM IT MAY CONCERN, Petitioner/Plaintiff William Martin,

21 hereby files this request for an extension of time to file and/or respond to any existing deadlines
22 and/or comply with any court imposed deadlines and/or statutory deadlines in the above
23 referenced case or, if no case number is assigned, to any anticipated actions intended to be files
24 in this Court pertaining to the moving party.

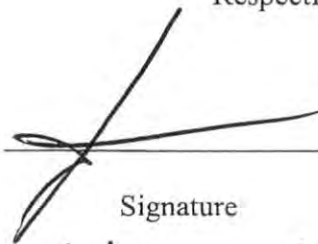
28 MOTION REQUESTING EXTENSION OF TIME BASED ON EXTRAORDINARY CIRCUMSTANCES

1 Petitioner bases this extraordinary request based upon an unprecedented event which is not only
2 disrupting the entire court system in the United States, but interrupting the lives of billions of
3 human beings on a global basis. This event is known as COVID-19 or as the Coronavirus. It is
4
5 my understanding that many courts nationwide have either closed temporarily or completely
6 until further notice. I have been unable to contact this Court as I am incarcerated with minimal or
7 no contact with the outside world. Our institution is either on a full lockdown or has severely
8 restricted movement within our institution thereby making it virtually impossible for me to
9 meaningfully litigate my existing or intended case.
10

11
12 Based on these facts Petitioner therefore respectfully prays the Court grant him/her a continuance
13 until and at such time Petitioner is again allowed meaningful access to the Courts.
14

Respectfully submitted,

15
16 Date: May 11th, 2020



Signature

William Martin

Printed Name

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28 MOTION REQUESTING EXTENSION OF TIME BASED ON EXTRAORDINARY CIRCUMSTANCES

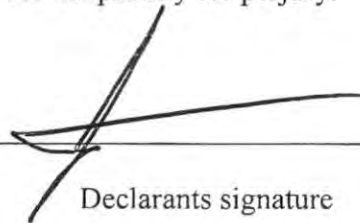
DECLARATION OF SERVICE

On the date as indicated below, I, William Martin, located in the following institution: Northern Nevada Corr. Center, located in the State of: Nevada, handed to a corrections officer a copy of my MOTION REQUESTING EXTENSION OF TIME BASED EXTRAORDINARY CIRCUMSTANCES, postage thereupon fully prepaid, for deposit into the United States Mail. Addressed to the following party or parties:

Tenth Judicial District Court
73 N. Maine St., Ste B
Fallon, NV
89406

The facts as stated above are true and correct subject to the penalty for perjury.

Date: May 11th, 2020


Declarants signature

MOTION REQUESTING EXTENSION OF TIME BASED ON EXTRAORDINARY CIRCUMSTANCES

EXHIBIT D

Sworn Affidavit of William Martin

EXHIBIT D

Affidavit In Support Of Petition

STATE OF NEVADA)
CARSON COUNTY) SS:

I, William Martin, do hereby swear under penalty of perjury that the assertions of this affidavit are true and correct to the best of my knowledge.

1. That, I am over the age of 18 years old, of sound mind and body, that I have personal knowledge of all matters contained herein and am competent to testify.

2. That, I am the Petitioner in the above-entitled action and Affiant herein and make this affidavit in support of my Petition For Writ Of Habeas Corpus (Post-Conviction).

3. That, I was indigent and I requested that my trial counsel, Peter Smith, obtain a psychiatric expert to assist me with my case and, he ineffectively told me that the court would not appoint one and I would have to pay for it myself.

4. That, I repeatedly informed my trial counsel that I have a long, documented history of severe mental illness, and he refused to conduct even a minimal investigation into providing me with a psychiatric defense.

5. That, my trial counsel refused to obtain any competent psychiatrist, or, psychiatric reports to assist me at sentencing.

Further Affiant sayeth naught.

That all statements, facts and events within my
Petition For Writ Of Habeas Corpus and this affidavit are
true and correct of my own knowledge, information and
belief, and ^{as} to those, I believe them to be true and correct.
Signed under penalty of perjury pursuant to NRS 208.165.
Dated this 11th day of February, 2021.

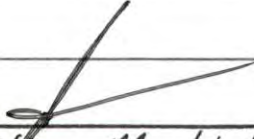

William Martin #95529
NWCC
P.O. Box 7000
Carson City, NV 89702

EXHIBIT E

Substance Abuse Diagnosis And Report

EXHIBIT E

Document Filed Under Seal

Document: Bailey Counseling
Associates – Substance Abuse
Diagnosis and Report

Filed: Not a filed document – received

Bate Stamped Pages: 257 – 258

****See Separate Certified Mailing****
Confidential Envelope

WEP
William Martin #95529
(Name / Number)

Northern Nevada Correctional Center
Post Office Box 7000
Carson City, NV 89702

Plaintiff/Petitioner, In Proper Person

FILED

2021 APR -6 AM 10:46

SUE SEVON
COURT CLERK

BY Sue Sevon DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

William Martin

Plaintiff/Petitioner,

vs.

Perry Russell, et al.,

Defendant/Respondent.

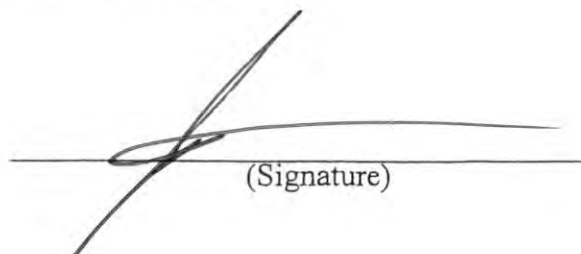
Case No.: 19-10 DC -0289A

**MOTION FOR LEAVE
TO PROCEED IN FORMA PAUPERIS**

COMES NOW, William Martin, Plaintiff / Petitioner, in his proper person, and respectfully moves this Honorable Court for leave to proceed in forma pauperis in the above-entitled action, without requiring Plaintiff / Petitioner to pay fees, provide security, or other costs for prosecuting this action, including service of process.

This motion is made pursuant to the provisions of NRS 12.015, the accompanying sworn affidavit of Plaintiff / Petitioner, and accompanying Institutional Financial Certificate indicating funds, if any, in his prison account.

Respectfully submitted this 31 day of March, 20 21


(Signature)

RECEIVED APR 06 2021

AFFIDAVIT OF William Martin

STATE OF NEVADA)
CARSON CITY) ss.

I, William Martin, being duly sworn according to law, state the following in support of my accompanying Motion for Leave to Proceed in Forma Pauperis.

- 1. That I request an attorney be appointed for me in this action.
- 2. Are you presently employed? Yes _____ No X

A. If the answer is yes, state the amount of your salary or wages per month, and give name and address of your employer.

N/A

B. If the answer is no, state the date of last employment and the amount of salary and wages per month which you received: Unemployed

3. Have you received in the past twelve months any money from any of the following sources?

- A. Business, profession or form of self-employment? Yes _____ No X
- B. Rent payments, interest or dividends? Yes _____ No X
- C. Pensions, annuities or life insurance payments? Yes _____ No X
- D. Gifts or inheritances? Yes _____ No X
- E. Any other sources? Yes X No _____ ← Courts - Personal

4. Do you own case or equivalent prison currency, or do you have money in a checking or savings account? Yes X No _____ (See the accompanying Inmate Financial

Certificate) Note: My prison savings account is not accessible to me. It's only given to me upon release.

5. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?

Yes _____ No X

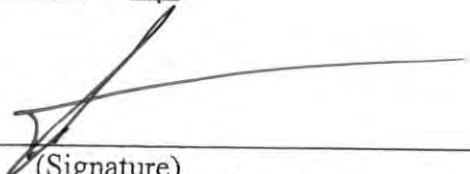
If your answer is yes, describe the property and state its approximate value: N/A

6. List the persons who are dependent upon you for support, state your relationship to those persons and indicate how much you contribute towards their

support: N/A

UNDER THE PENALTY OF PERJURY, Pursuant to NRS 208.165, the above affidavit is true and correct to the best of my personal knowledge.

Dated this 31 day of March, 2021.



(Signature)
William Martin

(Print Name)
95529

(I.D. No.)
Affiant, In Proper Person

AFFIRMATION PURSUANT TO NRS 239B.030

** I certify that the foregoing document DOES NOT contain the social security number of any persons.

March 31, 2021
(DATE)



(SIGNATURE)

FINANCIAL CERTIFICATE

I request that an authorized officer of the institution in which I am confined, or other designated entity, such as Inmate Services for the Nevada Department of Prisons (NDOC), complete the below Financial Certificate.

I understand that:

(1) if I commence a petition for writ of habeas corpus in federal court pursuant to 28 U.S.C. § 2254, the filing fee is \$5.00, and that such fee will have to be paid by me if the court denies my *in forma pauperis* application;

(2) if I commence a civil rights action in federal court pursuant to 42 U.S.C. § 1983, the filing fee is \$400.00 (which includes the \$350 filing fee and a \$50 administrative fee), which I must pay in full; and

(a) if my current account balance (line #1 below) is \$400.00 or more, I will not qualify for *in forma pauperis* status and I must pay the full filing fee of \$400.00 before I will be allowed to proceed with the action;

(b) if I do **NOT** have \$400.00 in my account as reflected on line #1 below, before I will be allowed to proceed with an action I will be required to pay 20% of my average monthly balance (line #2 below), or the average monthly deposits to my account (line #3 below), whichever is greater, and thereafter I must pay installments of 20% of the preceding month's deposits to my account in months that my account balance exceeds \$10.00 (if I am in the custody of the NDOC, I hereby authorize the NDOC to make such deductions from deposits to my account, and I further understand that if I have a prison job, then the 20% of my paycheck that is guaranteed to me as spendable money will be sent to the court for payment of the filing fee); and

(c) I must continue to make installment payments until the \$350.00 filing fee is fully paid, without regard to whether my action is closed or my release from confinement. The \$50 administrative fee will be waived only if I am granted permission to proceed *in forma pauperis*.

Type of action (check one): civil rights

habeas corpus

William Martin
INMATE NAME (printed)

95529
SIGNATURE & PRISON NUMBER

1. CURRENT ACCOUNT BALANCE

\$ 576.57

2. AVERAGE MONTHLY BALANCE*

\$ 375.31

3. AVERAGE MONTHLY DEPOSITS*

\$ 377.88

4. FILING FEE (based on #1, #2 or #3, whichever is greater)

\$ 5.00

* for the past six (6) months, from all sources, including amount in any savings account that is in excess of minimum amount that must be maintained

I hereby certify that as of this date, the above financial information is accurate for the above named inmate.

(Please sign in ink in a)
(color other than black.)

3/25/21
DATE

[Signature]
AUTHORIZED OFFICER
Acct. Tech II
TITLE

Financial Certificates
0095529 - MARTIN, WILLIAM
(9/26/2020 - 3/25/2021)

Trust				
Date	Description	Deposit	Withdrawal	Balance
09/26/2020	Opening Balance			\$0.94
10/10/2020	Keefe	\$16.05		\$16.99
10/10/2020	Postage		(\$8.03)	\$8.96
10/10/2020	Savings		(\$1.61)	\$7.35
10/10/2020	Phone Credit		(\$5.00)	\$2.35
10/11/2020	Keefe	\$165.05		\$167.40
10/11/2020	Postage		(\$10.27)	\$157.13
10/11/2020	Savings		(\$16.51)	\$140.62
10/11/2020	Phone Credit		(\$10.00)	\$130.62
10/11/2020	Phone Credit		(\$10.00)	\$120.62
10/11/2020	Phone Credit		(\$10.00)	\$110.62
10/11/2020	Phone Credit		(\$10.00)	\$100.62
10/11/2020	Phone Credit		(\$10.00)	\$90.62
10/12/2020	Commissary		(\$8.87)	\$81.75
10/16/2020	Keefe	\$489.05		\$570.80
10/16/2020	Savings		(\$48.91)	\$521.89
10/18/2020	Phone Credit		(\$10.00)	\$511.89
10/18/2020	Phone Credit		(\$10.00)	\$501.89
10/18/2020	Phone Credit		(\$10.00)	\$491.89
10/18/2020	Phone Credit		(\$10.00)	\$481.89
10/18/2020	Phone Credit		(\$10.00)	\$471.89
10/18/2020	Phone Credit		(\$10.00)	\$461.89
10/18/2020	Phone Credit		(\$10.00)	\$451.89
10/18/2020	Phone Credit		(\$10.00)	\$441.89
10/19/2020	Commissary		(\$138.23)	\$303.66
10/22/2020	Commissary Refund	\$138.23		\$441.89
10/22/2020	Trust 2		(\$138.23)	\$303.66
10/26/2020	Trust 2	\$51.24		\$354.90
10/26/2020	Commissary		(\$51.24)	\$303.66
10/30/2020	Keefe	\$10.00		\$313.66
10/30/2020	Savings		(\$1.00)	\$312.66
11/02/2020	Commissary Refund	\$0.75		\$313.41
11/02/2020	Trust 2		(\$0.75)	\$312.66
11/02/2020	Trust 2	\$87.74		\$400.40
11/02/2020	Commissary		(\$106.98)	\$293.42
11/04/2020	Phone Credit		(\$10.00)	\$283.42
11/04/2020	Phone Credit		(\$10.00)	\$273.42
11/04/2020	Phone Credit		(\$10.00)	\$263.42
11/09/2020	Commissary		(\$46.80)	\$216.62
11/11/2020	Phone Credit		(\$10.00)	\$206.62
11/15/2020	Phone Credit		(\$10.00)	\$196.62
11/16/2020	Commissary		(\$70.57)	\$126.05
11/18/2020	Phone Credit		(\$10.00)	\$116.05
11/20/2020	Keefe	\$489.05		\$605.10
11/20/2020	Savings		(\$48.91)	\$556.19
11/22/2020	Phone Credit		(\$10.00)	\$546.19

Financial Certificates
0095529 - MARTIN, WILLIAM

Trust				
Date	Description	Deposit	Withdrawal	Balance
11/23/2020	Phone Credit		(\$10.00)	\$536.19
11/26/2020	Phone Credit		(\$10.00)	\$526.19
11/28/2020	Phone Credit		(\$10.00)	\$516.19
11/29/2020	Phone Credit		(\$10.00)	\$506.19
11/30/2020	Commissary		(\$33.52)	\$472.67
11/30/2020	Phone Credit		(\$10.00)	\$462.67
12/01/2020	Commissary Refund	\$33.52		\$496.19
12/01/2020	Trust 2		(\$33.52)	\$462.67
12/02/2020	Trust 2	\$10.00		\$472.67
12/02/2020	Phone Credit		(\$10.00)	\$462.67
12/05/2020	Trust 2	\$10.00		\$472.67
12/05/2020	Phone Credit		(\$10.00)	\$462.67
12/07/2020	Trust 2	\$13.52		\$476.19
12/07/2020	Commissary		(\$14.73)	\$461.46
12/07/2020	Phone Credit		(\$10.00)	\$451.46
12/09/2020	Keefe	\$120.00		\$571.46
12/09/2020	Savings		(\$12.00)	\$559.46
12/09/2020	Phone Credit		(\$10.00)	\$549.46
12/11/2020	Phone Credit		(\$10.00)	\$539.46
12/12/2020	Phone Credit		(\$10.00)	\$529.46
12/14/2020	Phone Credit		(\$10.00)	\$519.46
12/15/2020	Check Tops		(\$139.45)	\$380.01
12/16/2020	Phone Credit		(\$10.00)	\$370.01
12/16/2020	Phone Credit		(\$10.00)	\$360.01
12/19/2020	Phone Credit		(\$10.00)	\$350.01
12/20/2020	Phone Credit		(\$10.00)	\$340.01
12/22/2020	Phone Credit		(\$10.00)	\$330.01
12/26/2020	Phone Credit		(\$10.00)	\$320.01
12/30/2020	Commissary		(\$22.73)	\$297.28
12/31/2020	Commissary		(\$28.34)	\$268.94
01/04/2021	Phone Credit		(\$10.00)	\$258.94
01/08/2021	Commissary		(\$22.40)	\$236.54
01/11/2021	Phone Credit		(\$10.00)	\$226.54
01/14/2021	Phone Credit		(\$10.00)	\$216.54
01/15/2021	Commissary		(\$18.41)	\$198.13
01/16/2021	Phone Credit		(\$10.00)	\$188.13
01/18/2021	Phone Credit		(\$10.00)	\$178.13
01/20/2021	Phone Credit		(\$10.00)	\$168.13
01/21/2021	Keefe	\$489.05		\$657.18
01/21/2021	Savings		(\$48.91)	\$608.27
01/24/2021	Phone Credit		(\$8.00)	\$600.27
01/25/2021	Phone Credit		(\$10.00)	\$590.27
01/27/2021	Phone Credit		(\$10.00)	\$580.27
01/29/2021	Commissary		(\$49.71)	\$530.56
01/31/2021	Phone Credit		(\$10.00)	\$520.56
02/03/2021	Phone Credit		(\$10.00)	\$510.56
02/06/2021	Phone Credit		(\$10.00)	\$500.56
02/08/2021	Phone Credit		(\$10.00)	\$490.56

Financial Certificates

0095529 - MARTIN, WILLIAM

Trust				
Date	Description	Deposit	Withdrawal	Balance
02/10/2021	Phone Credit		(\$10.00)	\$480.56
02/11/2021	Phone Credit		(\$10.00)	\$470.56
02/12/2021	Commissary		(\$50.04)	\$420.52
02/13/2021	Phone Credit		(\$10.00)	\$410.52
02/15/2021	Phone Credit		(\$10.00)	\$400.52
02/17/2021	Phone Credit		(\$10.00)	\$390.52
02/20/2021	Phone Credit		(\$10.00)	\$380.52
02/21/2021	Phone Credit		(\$10.00)	\$370.52
02/24/2021	Phone Credit		(\$10.00)	\$360.52
02/25/2021	Phone Credit		(\$10.00)	\$350.52
02/26/2021	Commissary		(\$50.19)	\$300.33
02/28/2021	Phone Credit		(\$10.00)	\$290.33
03/01/2021	Phone Credit		(\$10.00)	\$280.33
03/02/2021	Phone Credit		(\$10.00)	\$270.33
03/03/2021	Keefe	\$489.05		\$759.38
03/03/2021	Savings		(\$48.91)	\$710.47
03/03/2021	Court Order Fine		(\$14.67)	\$695.80
03/04/2021	Phone Credit		(\$10.00)	\$685.80
03/10/2021	Phone Credit		(\$10.00)	\$675.80
03/12/2021	Commissary		(\$49.23)	\$626.57
03/12/2021	Phone Credit		(\$10.00)	\$616.57
03/14/2021	Phone Credit		(\$10.00)	\$606.57
03/19/2021	Phone Credit		(\$10.00)	\$596.57
03/22/2021	Phone Credit		(\$10.00)	\$586.57
03/24/2021	Phone Credit		(\$10.00)	\$576.57
03/25/2021	Closing Balance			\$576.57

Trust2				
Date	Description	Deposit	Withdrawal	Balance
09/26/2020	Opening Balance			\$0.00
10/22/2020	Trust 2	\$138.23		\$138.23
10/26/2020	Trust 2		(\$51.24)	\$86.99
11/02/2020	Trust 2	\$0.75		\$87.74
11/02/2020	Trust 2		(\$87.74)	\$0.00
12/01/2020	Trust 2	\$33.52		\$33.52
12/02/2020	Trust 2		(\$10.00)	\$23.52
12/05/2020	Trust 2		(\$10.00)	\$13.52
12/07/2020	Trust 2		(\$13.52)	\$0.00
03/25/2021	Closing Balance			\$0.00

Trust3				
Date	Description	Deposit	Withdrawal	Balance
No Activity				
09/26/2020	Opening Balance			\$0.00
03/25/2021	Closing Balance			\$0.00

Savings				
Date	Description	Deposit	Withdrawal	Balance

Financial Certificates
0095529 - MARTIN, WILLIAM

Savings				
Date	Description	Deposit	Withdrawal	Balance
09/26/2020	Opening Balance			\$275.06
10/10/2020	Savings	\$1.61		\$276.67
10/11/2020	Savings	\$16.51		\$293.18
10/16/2020	Savings	\$48.91		\$342.09
10/30/2020	Savings	\$1.00		\$343.09
11/20/2020	Savings	\$48.91		\$392.00
12/09/2020	Savings	\$12.00		\$404.00
01/21/2021	Savings	\$48.91		\$452.91
03/03/2021	Savings	\$48.91		\$501.82
03/25/2021	Closing Balance			\$501.82

Financial Certificates

0095529 - MARTIN, WILLIAM

Date	Daily Balance	Daily Deposit	Number Of Deposit
09/26/2020	\$0.94	\$0.00	0
09/27/2020	\$0.94	\$0.00	0
09/28/2020	\$0.94	\$0.00	0
09/29/2020	\$0.94	\$0.00	0
09/30/2020	\$0.94	\$0.00	0
10/01/2020	\$0.94	\$0.00	0
10/02/2020	\$0.94	\$0.00	0
10/03/2020	\$0.94	\$0.00	0
10/04/2020	\$0.94	\$0.00	0
10/05/2020	\$0.94	\$0.00	0
10/06/2020	\$0.94	\$0.00	0
10/07/2020	\$0.94	\$0.00	0
10/08/2020	\$0.94	\$0.00	0
10/09/2020	\$0.94	\$0.00	0
10/10/2020	\$2.35	\$16.05	1
10/11/2020	\$90.62	\$165.05	1
10/12/2020	\$81.75	\$0.00	0
10/13/2020	\$81.75	\$0.00	0
10/14/2020	\$81.75	\$0.00	0
10/15/2020	\$81.75	\$0.00	0
10/16/2020	\$521.89	\$489.05	1
10/17/2020	\$521.89	\$0.00	0
10/18/2020	\$441.89	\$0.00	0
10/19/2020	\$303.66	\$0.00	0
10/20/2020	\$303.66	\$0.00	0
10/21/2020	\$303.66	\$0.00	0
10/22/2020	\$303.66	\$0.00	0
10/23/2020	\$303.66	\$0.00	0
10/24/2020	\$303.66	\$0.00	0
10/25/2020	\$303.66	\$0.00	0
10/26/2020	\$303.66	\$0.00	0
10/27/2020	\$303.66	\$0.00	0
10/28/2020	\$303.66	\$0.00	0
10/29/2020	\$303.66	\$0.00	0
10/30/2020	\$312.66	\$10.00	1
10/31/2020	\$312.66	\$0.00	0
11/01/2020	\$312.66	\$0.00	0
11/02/2020	\$293.42	\$0.00	0
11/03/2020	\$293.42	\$0.00	0
11/04/2020	\$263.42	\$0.00	0
11/05/2020	\$263.42	\$0.00	0
11/06/2020	\$263.42	\$0.00	0
11/07/2020	\$263.42	\$0.00	0
11/08/2020	\$263.42	\$0.00	0
11/09/2020	\$216.62	\$0.00	0
11/10/2020	\$216.62	\$0.00	0
11/11/2020	\$206.62	\$0.00	0
11/12/2020	\$206.62	\$0.00	0
11/13/2020	\$206.62	\$0.00	0

Financial Certificates

0095529 - MARTIN, WILLIAM

Date	Daily Balance	Daily Deposit	Number Of Deposit
11/14/2020	\$206.62	\$0.00	0
11/15/2020	\$196.62	\$0.00	0
11/16/2020	\$126.05	\$0.00	0
11/17/2020	\$126.05	\$0.00	0
11/18/2020	\$116.05	\$0.00	0
11/19/2020	\$116.05	\$0.00	0
11/20/2020	\$556.19	\$489.05	1
11/21/2020	\$556.19	\$0.00	0
11/22/2020	\$546.19	\$0.00	0
11/23/2020	\$536.19	\$0.00	0
11/24/2020	\$536.19	\$0.00	0
11/25/2020	\$536.19	\$0.00	0
11/26/2020	\$526.19	\$0.00	0
11/27/2020	\$526.19	\$0.00	0
11/28/2020	\$516.19	\$0.00	0
11/29/2020	\$506.19	\$0.00	0
11/30/2020	\$462.67	\$0.00	0
12/01/2020	\$462.67	\$0.00	0
12/02/2020	\$462.67	\$0.00	0
12/03/2020	\$462.67	\$0.00	0
12/04/2020	\$462.67	\$0.00	0
12/05/2020	\$462.67	\$0.00	0
12/06/2020	\$462.67	\$0.00	0
12/07/2020	\$451.46	\$0.00	0
12/08/2020	\$451.46	\$0.00	0
12/09/2020	\$549.46	\$120.00	1
12/10/2020	\$549.46	\$0.00	0
12/11/2020	\$539.46	\$0.00	0
12/12/2020	\$529.46	\$0.00	0
12/13/2020	\$529.46	\$0.00	0
12/14/2020	\$519.46	\$0.00	0
12/15/2020	\$380.01	\$0.00	0
12/16/2020	\$360.01	\$0.00	0
12/17/2020	\$360.01	\$0.00	0
12/18/2020	\$360.01	\$0.00	0
12/19/2020	\$350.01	\$0.00	0
12/20/2020	\$340.01	\$0.00	0
12/21/2020	\$340.01	\$0.00	0
12/22/2020	\$330.01	\$0.00	0
12/23/2020	\$330.01	\$0.00	0
12/24/2020	\$330.01	\$0.00	0
12/25/2020	\$330.01	\$0.00	0
12/26/2020	\$320.01	\$0.00	0
12/27/2020	\$320.01	\$0.00	0
12/28/2020	\$320.01	\$0.00	0
12/29/2020	\$320.01	\$0.00	0
12/30/2020	\$297.28	\$0.00	0
12/31/2020	\$268.94	\$0.00	0
01/01/2021	\$268.94	\$0.00	0

Financial Certificates

0095529 - MARTIN, WILLIAM

Date	Daily Balance	Daily Deposit	Number Of Deposit
01/02/2021	\$268.94	\$0.00	0
01/03/2021	\$268.94	\$0.00	0
01/04/2021	\$258.94	\$0.00	0
01/05/2021	\$258.94	\$0.00	0
01/06/2021	\$258.94	\$0.00	0
01/07/2021	\$258.94	\$0.00	0
01/08/2021	\$236.54	\$0.00	0
01/09/2021	\$236.54	\$0.00	0
01/10/2021	\$236.54	\$0.00	0
01/11/2021	\$226.54	\$0.00	0
01/12/2021	\$226.54	\$0.00	0
01/13/2021	\$226.54	\$0.00	0
01/14/2021	\$216.54	\$0.00	0
01/15/2021	\$198.13	\$0.00	0
01/16/2021	\$188.13	\$0.00	0
01/17/2021	\$188.13	\$0.00	0
01/18/2021	\$178.13	\$0.00	0
01/19/2021	\$178.13	\$0.00	0
01/20/2021	\$168.13	\$0.00	0
01/21/2021	\$608.27	\$489.05	1
01/22/2021	\$608.27	\$0.00	0
01/23/2021	\$608.27	\$0.00	0
01/24/2021	\$600.27	\$0.00	0
01/25/2021	\$590.27	\$0.00	0
01/26/2021	\$590.27	\$0.00	0
01/27/2021	\$580.27	\$0.00	0
01/28/2021	\$580.27	\$0.00	0
01/29/2021	\$530.56	\$0.00	0
01/30/2021	\$530.56	\$0.00	0
01/31/2021	\$520.56	\$0.00	0
02/01/2021	\$520.56	\$0.00	0
02/02/2021	\$520.56	\$0.00	0
02/03/2021	\$510.56	\$0.00	0
02/04/2021	\$510.56	\$0.00	0
02/05/2021	\$510.56	\$0.00	0
02/06/2021	\$500.56	\$0.00	0
02/07/2021	\$500.56	\$0.00	0
02/08/2021	\$490.56	\$0.00	0
02/09/2021	\$490.56	\$0.00	0
02/10/2021	\$480.56	\$0.00	0
02/11/2021	\$470.56	\$0.00	0
02/12/2021	\$420.52	\$0.00	0
02/13/2021	\$410.52	\$0.00	0
02/14/2021	\$410.52	\$0.00	0
02/15/2021	\$400.52	\$0.00	0
02/16/2021	\$400.52	\$0.00	0
02/17/2021	\$390.52	\$0.00	0
02/18/2021	\$390.52	\$0.00	0
02/19/2021	\$390.52	\$0.00	0

Financial Certificates

0095529 - MARTIN, WILLIAM

Date	Daily Balance	Daily Deposit	Number Of Deposit
02/20/2021	\$380.52	\$0.00	0
02/21/2021	\$370.52	\$0.00	0
02/22/2021	\$370.52	\$0.00	0
02/23/2021	\$370.52	\$0.00	0
02/24/2021	\$360.52	\$0.00	0
02/25/2021	\$350.52	\$0.00	0
02/26/2021	\$300.33	\$0.00	0
02/27/2021	\$300.33	\$0.00	0
02/28/2021	\$290.33	\$0.00	0
03/01/2021	\$280.33	\$0.00	0
03/02/2021	\$270.33	\$0.00	0
03/03/2021	\$695.80	\$489.05	1
03/04/2021	\$685.80	\$0.00	0
03/05/2021	\$685.80	\$0.00	0
03/06/2021	\$685.80	\$0.00	0
03/07/2021	\$685.80	\$0.00	0
03/08/2021	\$685.80	\$0.00	0
03/09/2021	\$685.80	\$0.00	0
03/10/2021	\$675.80	\$0.00	0
03/11/2021	\$675.80	\$0.00	0
03/12/2021	\$616.57	\$0.00	0
03/13/2021	\$616.57	\$0.00	0
03/14/2021	\$606.57	\$0.00	0
03/15/2021	\$606.57	\$0.00	0
03/16/2021	\$606.57	\$0.00	0
03/17/2021	\$606.57	\$0.00	0
03/18/2021	\$606.57	\$0.00	0
03/19/2021	\$596.57	\$0.00	0
03/20/2021	\$596.57	\$0.00	0
03/21/2021	\$596.57	\$0.00	0
03/22/2021	\$586.57	\$0.00	0
03/23/2021	\$586.57	\$0.00	0
03/24/2021	\$576.57	\$0.00	0
03/25/2021	\$576.57	\$0.00	0

Start Date	End Date	Total Daily Balances	Number Of Days	Average Monthly Balances
09/26/2020	10/25/2020	\$4,597.34	30	\$153.24
10/26/2020	11/25/2020	\$9,873.17	31	\$318.49
11/26/2020	12/25/2020	\$13,374.36	30	\$445.81
12/26/2020	01/25/2021	\$9,408.75	31	\$303.51
01/26/2021	02/25/2021	\$14,255.93	31	\$459.87
02/26/2021	03/25/2021	\$15,985.83	28	\$570.92

Start Date	End Date	Total Deposits	Number Of Deposits	Average Monthly Deposits
09/26/2020	10/25/2020	\$670.15	3	\$223.38
10/26/2020	11/25/2020	\$499.05	2	\$249.53
11/26/2020	12/25/2020	\$120.00	1	\$120.00
12/26/2020	01/25/2021	\$489.05	1	\$489.05
02/26/2021	03/25/2021	\$489.05	1	\$489.05

Current Account Balance:	3/25/2021	\$576.57
Average Monthly Account Balance:		\$375.31
Average Monthly Deposits:		\$377.88
Average Total Monthly Deposit:		\$261.83

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM JACOB MARTIN,)
) APPELLANT,)
vs.)
THE STATE OF NEVADA,)
) RESPONDENT.)
_____)

SUPREME COURT NO. 87437
DC CASE NO. 19-10DC-0289

**RECORD ON APPEAL
VOLUME
5**

ATTORNEY FOR APPELLANT
WILLIAM JACOB MARTIN, PRO PER
NORTHERN NV CORRECTIONAL CENTER
P.O. BOX 7000
CARSON CITY, NV 89702

ATTORNEY FOR RESPONDENT
LANE MILLS, ESQ.
CHIEF DEPUTY DISTRICT ATTORNEY
165 N. ADA STREET
FALLON, NV 89406

#19-10DC-0289 - STATE OF NEVADA vs. WILLIAM JACOB MARTIN
VOLUME INDEX

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RECEIVED APR 06 2021

Case No: 19-10DC-0289A

Dept No: 2

FILED

2021 APR -6 AM 10:46

SUE SEVON
COURT CLERK
BY Sue Sevon DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

William Martin,)
Petitioner))
vs))
Perry Russell, et al.,)
Respondent))

MOTION FOR APPOINTMENT
OF COUNSEL PURSUANT TO
NRS 34.750

Petitioner, William Martin, pursuant to NRS 34.750

(1) (2) request the Honorable Court to appoint counsel to represent him in this Habeas Corpus petition for the following reasons:

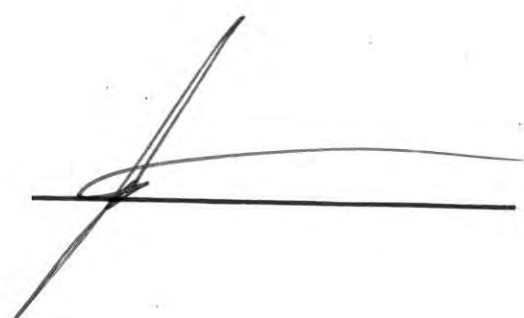
1. Petitioner is not able to afford counsel, see motion to proceed in Forma Pauperis and Affidavit in support filed with the court.
2. The issues involved in this matter are very complex.
3. The issues involved in this case will require investigation which the petitioner cannot do while confined in prison.
4. Petitioner has very limited knowledge of the law and process thereof.
5. The ends of justice would best be served in this case if an attorney was appointed to represent the petitioner.

Dated this March 31st day of March, 2021

/s/ [Signature]

CERTIFICATE OF SERVICE BY MAIL

Pursuant to N.R.C.P. Rule 5 (b), I hereby certify that I am the petitioner\Defendant named herein and that on this 31 day of March 2021, I mailed a true a correct copy of the foregoing document to the following:

A handwritten signature in black ink, consisting of a horizontal line with a large, sweeping loop above it and a diagonal stroke crossing the horizontal line from the bottom left.

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AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, _____
Petition For Writ of Habeas Corpus (Post-conviction)

(Title of Document)

filed in case number: 19-10DC-0289A

Document does not contain the social security number of any person

-OR-

Document contains the social security number of a person as required by:

A specific state or federal law, to wit:

(State specific state or federal law)

-or-

For the administration of a public program

-or-

For an application for a federal or state grant

-or-

Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: March 31, 2021

(Signature)

William Murtin
(Print Name)

Pro Per
(Attorney for)

JEP

William Martin #95529
NWCC
P.O. Box 7000
Carson City, NV 89702
Petitioner In Pro Se

FILED

2021 MAY 20 AM 11:20

SUE SEYON
COURT CLERK

BY J. Benning DEPUTY

RECEIVED MAY 20 2021

Tenth Judicial District Court
Churchill County

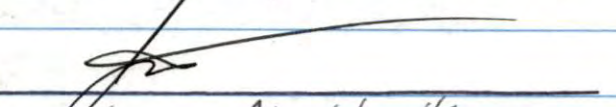
William Martin,
Petitioner,
vs.
Perry Russell, et al.,
Respondents.

Case No. 19-100C-0289A
Dept. No. 2
Petitioners Ex Parte Request
For Status Check

Petitioner William Martin, hereby requests a Status Check in the above-entitled cause of action. Petitioner filed his Petition For Writ of Habeas Corpus (Post-conviction) on March 16, 2021, and has not heard anything from the Court in this matter yet. Therefore, petitioner is requesting that the Court Clerk inform him as to the status of this case.

Respectfully Submitted:

Dated 5/17/21


William Martin #95529
Petitioner In Pro Se

FILED

2021 MAY 20 AM 11:38

SUE SEVON
COURT CLERK

BY J. Bernier DEPUTY

1 Case No. 19-10DC-0289A

2 Dept. I

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IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7

IN AND FOR THE COUNTY OF CHURCHILL

8

WILLIAM MARTIN,

9

Petitioner.

10

ORDER DIRECTING RESPONSE

11

vs.

12

WARDEN PERRY RUSSELL,

13

Respondent.

14

This matter comes before the Court on WILLIAM MARTIN's (hereinafter "William")

15

Petition for Writ of Habeas Corpus NRS Chapter 34 et seq. which he filed on March 16, 2021.

16

On April 18, 2019, William entered a guilty plea to the crime of Burglary, a Category B

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Felony in Case Number 19-10DC-0290. On the same day, William entered a guilty plea to the

18

same crime in Case Number 19-10DC-0289. This Court issued two Judgment's of Conviction on

19

June 25, 2019. In each case, the Court sentenced William to prison for thirty-six (36) months to

20

one-hundred and twenty (120) months with parole eligibility after thirty-six (36) months. The two

21

sentences were to run consecutively.

22

NRS 34.750 states, "If a petition challenges the validity of a judgment of conviction or

23

sentence and is the first filed by the petitioner, the judge or justice shall order the district attorney

24

or the Attorney General, whichever is appropriate, to file a response or an answer to the petition

... within 45 days."

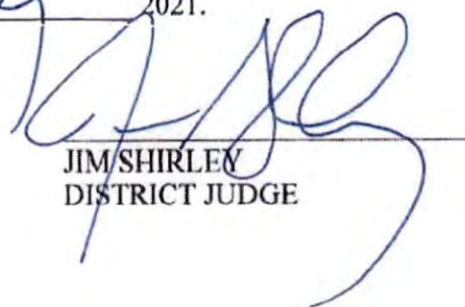
1 The Court has reviewed the Petition and has determined that a response would assist the
2 Court in determining whether William is illegally imprisoned and restrained of his liberty.
3 Accordingly, pursuant to NRS 34.750, this Court orders the Churchill County District Attorney
4 to file a response to William's Petition within 45 days of this order.

5 **GOOD CAUSE APPEARING IT IS HEREBY ORDERED**

- 6 1. The Churchill County District Attorney's Office shall file a response to William's Petition
7 within 45 days of the date of this order.

8 IT IS SO ORDERED.

9 Dated this 19th day of May 2021.

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11 
12 JIM SHIRLEY
13 DISTRICT JUDGE
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1 CERTIFICATE OF SERVICE

2 The undersigned, an employee of the Tenth Judicial District Court, hereby certifies
3 that on the 20TH day of May, 2021, I served the foregoing **ORDER DIRECTING**
4 **RESPONSE** on the parties, as noted below:

4 Charles B. Woodman Esq.
5 548 W. Plumb Lane, Suite B
6 Reno, NV 89509
7 Email: hardywoodmanlaw@msn.com
8 *Courtesy Copy*

7 Lane R. Mills Esq.
8 165 North Ada Street
9 Fallon, NV 89406
10 Email: lmills@churchillda.org

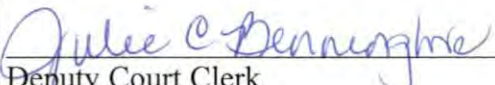
10 William Jacob Martin #95529
11 N.N.C.C.
12 P.O. Box 7000
13 Carson City, NV 89702

14
15 DATED this 20TH day of May, 2021.

16 
17 _____

Sue Sevon, Court Administrator

17 Subscribed and Sworn to before me
18 this 20TH day of May, 2021.

19 
20 _____
21 Deputy Court Clerk

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Case No. 19-10DC-0289A

Dept. No. 1

The undersigned hereby affirms that this document does not contain the social security number of any person.

FILED

2021 JUN 28 PM 3:45

SUE SEVON
COURT CLERK

BY *Kat [Signature]* DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

Defendant.

**MOTION TO DISMISS POST
CONVICTION WRIT AS
UNTIMELY**

COMES NOW, the Respondent and files a motion to dismiss this post conviction writ as untimely. This motion is based upon all pleadings and papers herein on file and the attached points and authorities.

DATED: This 28th day of June, 2021.

Lane R. Mills

Lane R. Mills
Chief Deputy District Attorney

1 **Points and Authorities in Support of Motion to Dismiss Post Conviction Writ as Untimely**
2 **and in violation of NRS 34.726(1).**

3 NRS 34.726 provides that all post-conviction writs must be filed within one year of the
4 judgement of conviction unless there is good cause shown for the delay. These procedural
5 default rules are mandatory for a court to follow. State v. Dist. Ct. (Riker) 121 Nev. 225,
6 232(2005). Furthermore good cause for delay must be some impediment external to the defense
7 Harris v. Warden, S. Desert Correction Cts., 114 Nev. 956 (1998), Pellegrini v. State, 117 Nev.
8 860, 886 (2001).

9 The Nevada Supreme Court has articulated examples to include:

10 “ ‘that the factual or legal basis for a claim was not reasonably available . . . or that “some
11 interference by officials” made compliance [with the procedural rule] impracticable.’ “[A]ctual
12 prejudice” requires a showing “ ‘not merely that the errors [complained of] created a possibility
13 of prejudice, but that they worked to [the petitioner’s] actual and substantial disadvantage, in
14 affecting the state proceeding with error of constitutional dimensions.’ Pellegrini v. State, 117
15 Nev. 860, 887 (2001).”

16 Based upon NRS 34.726 this petition was required to be filed on or before Jun 25, 2020
17 (See Exhibit A Judgement of Conviction). There is no showing within the petition for good cause
18 for delay. Instead, Martin alleges, unsupported by any evidence, affidavit or exhibits that the
19 prison library was temporarily closed in March of 2020 due to the coronavirus and he was
20 quarantined. Martin fails to state what if anything prevented him from filing in the other 11
21 months of the year. Martin clearly had access to the mail system as he filed a motion in case #
22 10-10DC-0289. As Martin can file motions in the month of May there was no impediment
23 external to the Defense. Additionally, according to records from NDOC, (See Exhibit B
24 Affidavit) Martin requested case law/legal research materials or forms on 1/30/2020, 2/5/2020,
25 6/2/2020. He also requested copy work on 4/21/2002 and 5/11/2020.

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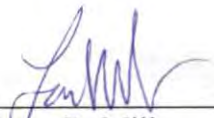
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As this petition was filed on March 16, 2021 it is untimely and must be dismissed.

DATED: This 28th day of June, 2021.



Lane R. Mills
Chief Deputy District Attorney

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Exhibit A

FILED

1 Case No. 19-10DC-0289

2019 JUN 25 PM 2: 54

2 Dept. No. 1

SUE SEVON
COURT CLERK

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4 The undersigned hereby affirms that
this document does not contain the
social security number of any person.

BY J. Pennington DEPUTY

5
6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF CHURCHILL

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

JUDGMENT OF CONVICTION

11 WILLIAM JACOB MARTIN,

12 Defendant.

13
14 On the 18th day of April, 2019, the above-named Defendant, WILLIAM JACOB
15 MARTIN, Date of Birth: August 14, 1983, Place of Birth: Jackson, Mississippi, entered a plea
16 of guilty to the crime(s) of : **COUNT 1, Burglary, a Category B Felony, in violation of NRS**
17 **205.060(2).**

18 Further, that at the time the Defendant entered the plea of guilty, this Court informed
19 the Defendant of the privilege against compulsory self-incrimination, the right to a speedy trial,
20 the right to a trial by jury, the right to compulsory process to compel witnesses to testify on
21 behalf of the Defendant, and the right to confront the accusers. That after being so advised, the
22 Defendant stated that these rights were understood and still desired this Court to accept the plea
23 of guilty.

24 Further, that at the time the Defendant entered a plea of guilty, and at the time of
25 sentencing, the Defendant was represented by an attorney, CHARLES B. WOODMAN, or the
26 duly appointed representative; also present in Court were the Churchill Court Clerk, or the duly
27 appointed representative, the Sheriff of Churchill County, or the duly appointed representative,
28 the District Attorney of Churchill County, Nevada, or the duly appointed representative.

DA#18-133/LRM/SLS

1 representing the State of Nevada; and the Operations Supervisor, or the duly appointed
2 representative, representing the Division of Parole and Probation.

3 The Court having accepted the Defendant's plea of guilty, and having set the date of
4 June 20, 2019, as the date for imposing judgment and sentence and the Defendant having
5 appeared at such time, represented by counsel, and the Defendant having been given the
6 opportunity to exercise the right of allocution, and having shown no legal cause why judgment
7 should not be pronounced at that time.

8 This Court thereupon pronounced WILLIAM JACOB MARTIN guilty of:

9 **COUNT 1, Burglary, a Category B Felony, in violation of NRS 205.060(2).**

10 In accordance with the applicable statutes of the State of Nevada this Court sentenced
11 the Defendant to:

12 ON COUNT 1: imprisonment in the Nevada State Prison for a minimum term of 36
13 months, with a maximum term of 120 months, and a minimum parole eligibility of 36
14 months, consecutive to Tenth Judicial District Court Case Number 18-10DC-0049 and
15 to Second Judicial District Court Case Number CR18-0761.

16 In addition, said Defendant shall pay:

- 17 1. Restitution in the amount of Three Thousand Fifty-six Dollars and Thirty-five
18 Cents (\$3,056.35) to Nevada Division of Parole & Probation.
- 19 2. An Administrative Assessment Fee in the amount of Twenty-five Dollars (\$25.00)
20 to Tenth Judicial District Court.
- 21 3. A Chemical Analysis Fee in the amount of Three Dollars (\$3.00) to Tenth Judicial
22 District Court.

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Pursuant to NRS 176.0913, Defendant must submit a biological specimen to determine genetic markers and/or secretor status.

Therefore, the Clerk of the above-entitled Court is hereby directed to enter the Judgment of Conviction as a part of the record in the above-entitled matter. The Clerk of the Court is further ordered to provide Defendant's Exhibit #A and #B that were presented at Sentencing and forward them to the Nevada Department of Corrections in a sealed envelope to assist and be considered in the Defendant's rehabilitation.

DATED: This 25th day of June, 2019.


DISTRICT COURT JUDGE

Exhibit B

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 State of Nevada)
2 County of Carson City) ss

3 AFFIDAVIT

4 NOW COMES, Jennifer McCain-Dunbar, the Law Library Supervisor at Norther Nevada
5 Correction Center, Stewart Conservation Camp, who after first being duly sworn deposes and
6 says:

- 7 1. That the deponent is the Law Library Supervisor for the Northern Nevada Correction
- 8 Center, Stewart Conservation Camp. I am custodian of records for the law library and
- 9 said records are kept in the ordinary course of business.
- 10 2. I have reviewed I/M Martin, William 95529 law library file and have found the
- 11 following:
 - 12 a. Incoming legal mail:
 - 13 i. 02/18/2021 from Washoe County Public Defenders Office.
 - 14 ii. 03/17/2021, 04/0/2021, 05/24/2021 from the 10th Judicial District court
 - 15 b. Outgoing: legal mail:
 - 16 i. 03/12/2021:, NNCC Warden, Office of the Attorney General in Carson
 - 17 City, 10th Judicial District court, Churchill county DA's office.
 - 18 c. He requested case law/ legal research materials or forms on 01/30/2020,
 - 19 02/05/2020, 06/02/2020, 06/26/2021, 03/07/2021, 02/28/2021
 - 20 d. He requested copy work on: 01/24/2002, 04/21/2020, 05/11/2020, 03/09/2021.

20 FURTHER, AFFIANT SAYETH NAUGHT.

21 Dated: This 22 day of June, 2021.

22 By: Jennifer McCain-Dunbar

23 Subscribed and Sworn to before me,
24 this 22 day of June, 2021.

25 Jennifer McComb
Notary Public



CERTIFICATE OF SERVICE

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On the 28 day of June, 2021, I was an employee of the Churchill County District

Attorney's Office and that the foregoing **Motion To Dismiss Post Conviction Writ As**

Untimely, was served to the following address(s):

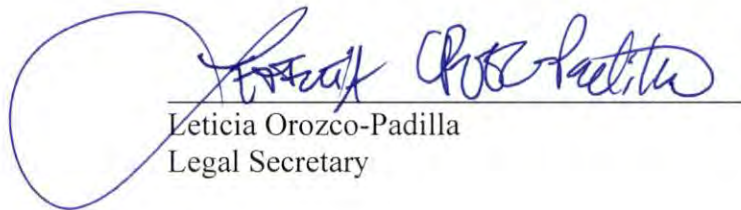
Attorney Generals Office
100 North Carson Street
Carson City, NV 89701

William Martin / Inmate #95529
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

By:

- U.S. Mail
- Certified Mail
- Return Receipt Requested
- Hand Delivered
- Facsimile
- Email



Leticia Orozco-Padilla
Legal Secretary

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 Case No.: 19-10DC-0289A

2 Dept. No.: I

FILED

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SUE SEVON
COURT CLERK

BY *Bennings*

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7 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
8 IN AND FOR THE COUNTY OF CHURCHILL

9
10 WILLIAM MARTIN,

11 Petitioner,

12 vs.


13 PERRY RUSSELL,

14 Respondent.

**ANSWER AND OPPOSITION TO THE
POST CONVICTION WRIT OF HABEAS
CORPUS**

15 Comes now, the State of Nevada, by and through the Churchill County District
16 Attorney's Office, and hereby files this Answer and Opposition to the Post Conviction Writ of
17 Habeas Corpus pursuant to NRS 34.760. This answer and opposition is based upon all pleadings
18 and papers herein on file and the attached and incorporated points and authorities.

19
20 DATED: This 6 day of July 6, 2021

21
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23 
24 Lane R. Mills
25 Chief Deputy District Attorney
26 165 North Ada Street
27 Fallon, NV 89406
28

1 **POINTS AND AUTHORITIES IN SUPPORT OF ANSWER AND OPPOSITION TO**
2 **THE POST CONVICTION WRIT OF HABEAS CORPUS**

3 **ANSWER PURSUANT TO NRS 34.760**

4 William Martin, the Petitioner herein, was charged and pled guilty to Count 1 Burglary in
5 violation of 205.060. Martin was sentenced on June 20, 2019. No appeal was filed. Thereafter
6 on March 16, 2021, the Petitioner filed the instant post conviction writ. To the undersigned’s
7 knowledge, no other writs have been filed in either State or Federal Court.

8 There are no available transcripts of the Justice Court proceedings and there is a
9 recording of the Justice Court proceedings. The District Court proceedings are available as
10 JAVS recording at the Court house. The State would note that pursuant to NRS 34.760 it is only
11 the Petitioner or the Court, on its own motion, that has the power to order transcripts of the
12 proceedings.

13 **LIMITATIONS ON TIME TO FILE POST CONVICTION WRIT**

14 NRS 34.726 provides that all post-conviction writs must be filed within one year of the
15 judgement of conviction unless there is good cause shown for the delay. Good cause for delay
16 must be some impediment external to the defense Harris v. Warden, S. Desert Correction Cts.,
17 114 Nev. 956 (1998), Pellegrini v. State, 117 Nev. 860, 886 (2001). Based upon NRS 34.726
18 this petition was required to be filed on or before Jun 20, 2020. There is no showing within the
19 petition or even an assertion as to good cause for delay. Martin clearly had access to the mail
20 system as he filed a motion in case # 10-10DC-0289. As he can file motions there was no
21 impediment external to the Defense.

22
23 **LAW REGARDING INEFFECTIVE ASSISTANCE OF COUNSEL**

24
25 Claims of ineffective assistance of counsel are evaluated under the two-prong test set
26 forth in Strickland v. Washington 466 U.S. 668, 687 (1984). To state a claim of ineffective
27 assistance of counsel sufficient to invalidate a judgment of conviction under Strickland, a
28 petitioner must demonstrate (1) that counsel's performance was deficient in that it fell below an

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 objective standard of reasonableness and (2) prejudice such that counsel's errors were so severe
2 that they rendered the jury's verdict unreliable. A petitioner must demonstrate "the disputed
3 factual allegations underlying his ineffective-assistance claim by a preponderance of the
4 evidence."¹ Furthermore a petitioner is only entitled to an evidentiary claim regarding his claim
5 if it is not belied by the record and , if true, would warrant relief.²

6
7 **ANSWER AND OPPOSITION TO GROUND ONE**

8 Because Martin pled guilty, this Court is required to dismiss a ground if it is not based
9 upon an allegation that the plea was involuntarily or unknowingly entered or that the plea was
10 entered without effective assistance of counsel (see NRS 34.810). Petitioner claims that his
11 guilty plea was without effective assistance of counsel inso far as he makes a bald, unsupported
12 assertion that counsel knew there was an insanity defense and counsel advised him to plead
13 guilty without first obtaining a competent psychiatrist to assist counsel. The filings in this matter
14 are devoid of proof that the Defendant was insane.

15 Martin's claims are belied by the record and should be dismissed. As an initial matter
16 this court swore in the Defendant during the court canvas such that his answer were given under
17 penalty of perjury. During this court's canvas this Defendant told the court he was totally
18 satisfied by his attorney and that he had done everything he had been ask. (JAVS recording
19 4.18.19 at 5:22:56). The Court's canvas of the Defendant was text book perfect. While under
20 oath, the Defendant responded appropriately to all questions by the Court. Martin told the Court
21 he completed high school and attended some college (2-2.5 years.) He further stated he
22 understood the legal documents in his case.

23 In the written guilty plea memorandum which was signed by Martin he asserted that he
24 had discussed any possible defenses, defense strategies and circumstance which might be in his
25 favor (p4 of GPM). As his claims are belied by the record this ground should be dismissed.

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¹ Hernandez v. State 124 Nev. 978, 987 (2008).

² Moore v. State 134 Nev. Nev. Adv. Op 35 (2018).

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ANSWER AND OPPOSITION TO GROUND TWO

In Ground Two Martin alleges, again without proof that he was suffering from PTSD, depression (psychotic) during his plea hearing and that Counsel failed to investigate his competence. He further asserts that he was not competent to enter his plea. Martin claims are merely conclusionary and not supported by any facts. As his claims are belied by the record of the proceedings and the written guilty plea memorandum this ground should be dismissed as well.

ANSWER AND OPPOSITION TO GROUND THREE

Martin next claims counsel failed to present mitigating evidence at sentencing. Again this claim is also belied by the record as counsel for the defendant made extensive arguments at sentencing. This ground should also be dismissed as it is belied by the record and there is no showing of prejudice.

ANSWER AND OPPOSITION TO GROUND FOUR

Martin next claims counsel did not consult with him and inform him of this right to appeal and failed to perfect that right after being instructed to appeal. In the guilty plea agreement he is directly informed of the limits of his right to appeal. Martin does not list with specificity what the appeal issue would be as is his burden. As such this ground should be dismissed as well.

ANSWER AND OPPOSITION TO GROUND FIVE

This ground has been addressed in the State's motion to dismiss and as such will not be addressed here.


CONCLUSION

Based upon the foregoing the State would request that this Writ be dismissed.

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

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DATED: This 6 day of July, 2021.



Lane R. Mills
Chief Deputy District Attorney
165 North Ada Street
Fallon, NV 89406

CERTIFICATE OF SERVICE

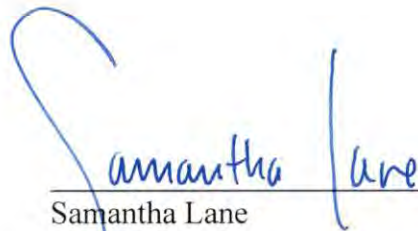
On the 6th day of July, 2021, I was an employee of the Churchill County District Attorney's Office and that the foregoing **ANSWER AND OPPOSITION TO THE POST CONVICTION WRIT OF HABEAS CORPUS** was served to the following address(s):

Attorney Generals Office
100 North Carson Street
Carson City, NV 89701

William Martin / Inmate #95529
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

- By:
- U.S. Mail
 - Certified Mail
 - Return Receipt Requested
 - Hand Delivered
 - Facsimile
 - Email



 Samantha Lane
 Legal Secretary

1 Case No. 19-10DC-0289A

2 Dept. I

FILED

2021 JUL 16 AM 9:32

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BY Jennings DEPUTY

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6 **IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF CHURCHILL**
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10 WILLIAM MARTIN,

11 Petitioner,

12 vs.

ORDER DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS

13 WARDEN PERRY RUSSEL,

14 Respondent.
15
16 _____ /

17 This Matter is before the Court on Petitioner WILLIAM JACOB MARTIN's
18 (hereinafter "William") Petition for Writ of Habeas Corpus (Post-Conviction), filed on March
19 16, 2021. On June 28, 2021 the STATE OF NEVADA (hereinafter "State") filed a Motion to
20 Dismiss Post Conviction Writ as Untimely. On July 6, 2021 the State filed an Answer and
21 Opposition to the Post-Conviction Writ of Habeas Corpus. The Answer filed by the State was in
22 response to the Court's May 20, 2021 Order directing a response from the State within 45 days.

23 Pursuant to NRS 34.726(1), a Petition for Writ of Habeas Corpus "must be filed within 1
24 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment,

1 within 1 year after the appellate court of competent jurisdiction... issues its remittitur." A
2 petitioner may demonstrate good cause for the delay in filing if: 1) the delay is not the fault of
3 the petitioner; and 2) that dismissal of the petition as untimely will unduly prejudice the
4 petitioner. *Id.* "application of the statutory procedural default rules to post-conviction habeas
5 petitions is mandatory." *State v. Eighth Judicial Dist. Court*, 121 Nev. 225, 231 (2005).

6 Here, William was sentenced for a minimum term of 36 months with a maximum term
7 of 120 months. A Judgment of Conviction was entered on June 25, 2019. William did not
8 appeal. Thus, for William's Petition to be considered, it had to be filed on or before June 25,
9 2020. William's Petition is untimely as it was filed on March 16, 2021.

10 Accordingly, William has the burden of showing good cause for his delayed filing.
11 William argues the COVID-19 pandemic hindered his ability to timely file his petition. The
12 Court finds William's argument does not show good cause for the delayed filing. The Court
13 bases this finding on the fact that William's judgment of conviction was entered on June 25,
14 2019. The COVID-19 pandemic caused country wide shutdowns in March of 2020. That leaves
15 roughly eight months in which William could have filed his petition. While the pandemic may
16 have hindered William's ability to file his petition at the end of his statutory time period, he had
17 ample opportunity to file prior to the beginning of the pandemic.

18 Accordingly, pursuant to NRS 34.726, William's Petition for Writ of Habeas Corpus
19 (Post-Conviction) is DISMISSED as untimely.

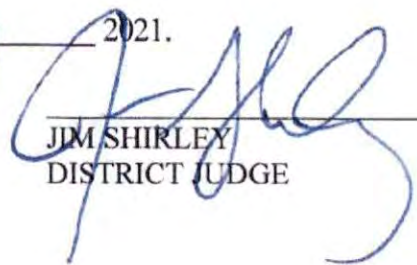
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GOOD CAUSE APPEARING, IT IS HEREBY ORDERED

1. The Petition for Writ of Habeas Corpus (Post-Conviction) is DISMISSED.

IT IS SO ORDERED.

Dated this 14th day of July 2021.



JIM SHIRLEY
DISTRICT JUDGE

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CERTIFICATE OF SERVICE

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that on the 16th day of July, 2021, I served the foregoing **ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS** on the parties, as noted below:

Lane R. Mills Esq.
165 North Ada Street
Fallon, NV 89406
Email: lmills@churchillda.org; lorozco-padilla@churchillda.org


William Jacob Martin #95529
N.N.C.C.
P.O. Box 7000
Carson City, NV 89702

DATED this 16th day of July, 2021.



Sue Sevon, Court Administrator

Subscribed and Sworn to before me
this 16th day of July, 2021.



Deputy Court Clerk

JCB

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CASE NO. 19-10DC-0289A

DEPT. NO. I

The undersigned hereby affirms that this document
does not contain the social security number of any person.

FILED

2021 JUL 16 AM 9:52

SUE SEVON
COURT CLERK

BY: Julie Benninghove
DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

WILLIAM MARTIN,
Petitioner,

vs.

WARDEN PERRY RUSSEL,
Respondent.

NOTICE OF ENTRY OF ORDER

Please take notice that on July 16, 2021, this Court entered its Order Dismissing
Petition for Writ of Habeas Corpus. A copy is attached hereto.

DATED this 16th day of July, 2021.

Sue Sevon, Clerk of Court

By: Julie C Benninghove
Julie Benninghove
Deputy Court Clerk

(SEAL)

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CERTIFICATE OF MAILING

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that I served the foregoing **NOTICE OF ENTRY OF ORDER** on the parties by depositing a copy thereof in the U.S. Mail at Fallon, Nevada, postage prepaid, or as noted below:

Lane R. Mills Esq.
Email - lmills@churchillda.org

Charles B. Woodman Esq.
Attorney at Law
548 W. Plumb Lane, Suite B
Reno, NV 89501

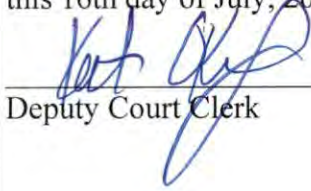
William Jacob Martin #95529
N.N.C.C.
P.O. Box 7000
Carson City, NV 89702

Office of the Attorney General
100 North Carson Street
Carson City, NV 89701
~ *Courtesy Copy* ~

DATED this 16th day of July, 2021.


Deputy Court Clerk

Subscribed and Sworn to before me
this 16th day of July, 2021.



Deputy Court Clerk

1 Case No. 19-10DC-0289A

2 Dept. I

FILED

2021 JUL 16 AM 9:32

SUE SEYON
COURT CLERK

BY Bennings DEPUTY

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6 **IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF CHURCHILL**
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10 WILLIAM MARTIN,

11 Petitioner,

12 vs.

ORDER DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS

13 WARDEN PERRY RUSSEL,

14 Respondent.
15

16 _____ /
17 This Matter is before the Court on Petitioner WILLIAM JACOB MARTIN's
18 (hereinafter "William") Petition for Writ of Habeas Corpus (Post-Conviction), filed on March
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21 Opposition to the Post-Conviction Writ of Habeas Corpus. The Answer filed by the State was in
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23 Pursuant to NRS 34.726(1), a Petition for Writ of Habeas Corpus "must be filed within 1
24 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment,

1 within 1 year after the appellate court of competent jurisdiction... issues its remittitur." A
2 petitioner may demonstrate good cause for the delay in filing if: 1) the delay is not the fault of
3 the petitioner: and 2) that dismissal of the petition as untimely will unduly prejudice the
4 petitioner. *Id.* "application of the statutory procedural default rules to post-conviction habeas
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6 Here. William was sentenced for a minimum term of 36 months with a maximum term
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8 appeal. Thus, for William's Petition to be considered, it had to be filed on or before June 25,
9 2020. William's Petition is untimely as it was filed on March 16, 2021.

10 Accordingly, William has the burden of showing good cause for his delayed filing.
11 William argues the COVID-19 pandemic hindered his ability to timely file his petition. The
12 Court finds William's argument does not show good cause for the delayed filing. The Court
13 bases this finding on the fact that William's judgment of conviction was entered on June 25,
14 2019. The COVID-19 pandemic caused country wide shutdowns in March of 2020. That leaves
15 roughly eight months in which William could have filed his petition. While the pandemic may
16 have hindered William's ability to file his petition at the end of his statutory time period, he had
17 ample opportunity to file prior to the beginning of the pandemic.

18 Accordingly, pursuant to NRS 34.726, William's Petition for Writ of Habeas Corpus
19 (Post-Conviction) is DISMISSED as untimely.

1 **GOOD CAUSE APPEARING, IT IS HEREBY ORDERED**

2 1. The Petition for Writ of Habeas Corpus (Post-Conviction) is DISMISSED.

3 IT IS SO ORDERED.

4 Dated this 14th day of July 2021.

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7 JIM SHIRLEY
8 DISTRICT JUDGE
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CERTIFICATE OF SERVICE

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that on the 16th day of July, 2021, I served the foregoing **ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS** on the parties, as noted below:

Lane R. Mills Esq.
165 North Ada Street
Fallon, NV 89406
Email: lmills@churchillda.org; lorozco-padilla@churchillda.org

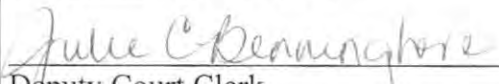
William Jacob Martin #95529
N.N.C.C.
P.O. Box 7000
Carson City, NV 89702

DATED this 16th day of July, 2021.



Sue Sevon, Court Administrator

Subscribed and Sworn to before me
this 16th day of July, 2021.



Deputy Court Clerk

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RECEIVED JUL 16 2021

William Martin #95529
NNCC
P.O. BOX 2000
Carson City, NV 89702
Petitioner In Pro Se

FILED
2021 JUL 16 PM 1:07
SUE SEVON
COURT CLERK
BY *[Signature]* DEPUTY

Tenth Judicial District Court
Churchill County, Nevada

William Martin, Petitioner, vs. Perry Russell, et al., Respondents.	Case No. 19-10DC-0289A Dept 2 Petitioner's Opposition To Respondent's Motion To Dismiss
---	---

Petitioner William Martin, hereby files his Opposition to the Respondent's Motion to Dismiss his Post-Conviction Writ as Untimely in the above-entitled cause of action.

This Opposition is made and based upon the attached Points And Authorities, and all other papers and pleadings on file in this case.

Points And Authorities

I. Argument

A. Petitioner's Post-Conviction Petition For Writ Of Habeas Corpus Is Timely Under NRS 34.726 (1).

In their Motion to Dismiss petitioner's post-conviction petition for writ of habeas corpus, Respondents argue that Petitioner failed to file his habeas petition in a timely manner pursuant to NRS 34.226(1), and that, Petitioner failed to show cause and prejudice excusing his alleged late filing. This argument is without merit and should be rejected by this Court.

When reviewing Petitioner's post-conviction writ, it appears that Respondents didn't even acknowledge Petitioner's Memorandum of Points and Authorities that he filed contemporaneously with his petition, in support of said petition.

First the Respondent's argument fails because, the Motion For An Extension Of Time that Petitioner timely filed, due to extraordinary circumstances, i.e., the coronavirus and ~~quaranteen~~ quaranteen, tolled the 1-year clock from running until the Motion was answered, which it never was. And, the Motion specifically requested relief, i.e., an extension of time, because of the quaranteen at the prison due to the corona virus, that Petitioner ~~was~~ ^{was} also suffering from. Finally, Petitioner filed the Motion in good faith and, it's not his fault the Court failed to answer it.

Second, Petitioner's suffering from the corona virus, and inability to obtain adequate assistance from the NCC Law Library (due to the quarantine) are clearly adequate cause for his alleged late filing, as both of these impediments were external to the defense. See Pelligrini v. State, 117 Nev. 860, 886 (2001).

And, third, Petitioner would be significantly prejudiced if he were not allowed to file his habeas petition due to the abovementioned impediments ~~external~~^{external} to the defense because, Petitioner has shown that he was denied effective assistance of counsel that ultimately resulted in his unlawful conviction; Petitioner is actually innocent of the underlying offenses in this case.

B. Judicial Review Of Petitioner's Claims For Relief In The Instant Petition Is Required Because Failure To Consider Them Will Result In A Fundamental Misriage Of Justice.

Assuming, arguendo, that there is a procedural default in the instant case, it must be excused by this Court because, Petitioner has made a colorable showing that he is actually innocent of the crimes he was

unlawfully convicted of and, failure to consider his claims for relief will result in a fundamental miscarriage of justice. See Pelligrini v. State, 34 P.3d 519, 537 (Nev. 2001); and, Mazzas v. Whitley, 921 P.2d 920, 922 (Nev. 1996).

Furthermore, this Court should take Judicial Notice of the fact that Respondents failed to present any arguments against Petitioner's claim of actual innocence contained in his Memorandum of Points and Authorities, that he filed contemporaneously with the instant habeas petition. Clearly, Respondents have not contested Petitioner's claim of actual innocence, and, Petitioner is entitled to have his petition heard on the merits.

C. The Court Should Order Expansion OF The Record And An Evidentiary Hearing In This Case

Petitioner's claim of actual innocence is highly fact dependent and, Petitioner is entitled to further factual development before this action is dismissed.

At the very least this Court should hold an evidentiary hearing for the limited purpose of allowing March to present the testimony


of his expert witness on the issue of his legal insanity at the time of the alleged offenses. Especially, since Martin has made a *prima facie* showing of actual innocence, by reason of legal insanity,

II. Conclusion

Petitioner respectfully requests that this Court deny Respondent's Motion To Dismiss Post-Conviction Writ As Untimely, and further, grant Petitioner's Petition For Writ of Habeas Corpus (Post-conviction) in this case.

Dated this 13th of July, 2021.

Respectfully Submitted:


William Martin #95529
Petitioner In Pro Se

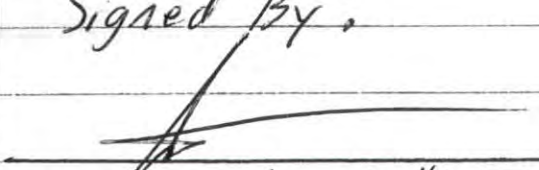
Certificate of Service By Mail

I, William Martin, hereby certify pursuant to N.R.C.P. 5(b), that on the 13th day of July, 2021, I mailed a true and correct copy of the foregoing Petitioner's Opposition To Respondent's Motion To Dismiss, addressed to:

Lane R. Mills
Chief Deputy District Attorney
165 North Ada Street
Fallon, Nevada 89406

Attorney General's Office
100 North Carson Street
Carson City, Nevada 89701

Signed By:


William Martin #95529

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CASE NO. 19-10DC-0289

DEPT. NO. I

FILED

2021 JUL 16 PM 1:42

SUE SEYON
COURT CLERK

BY *[Signature]* DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

WILLIAM MARTIN

Petitioner

v.

PERRY RUSSEL, ET AL.

Respondent

**DOCUMENTATION OF COURTESY
SERVICE BY CLERK'S OFFICE**

The undersigned, an employee of the Tenth Judicial District Court, hereby states that I provided a **COURTESY COPY** of the foregoing PETITIONER'S OPPOSITION TO RESPONDENT'S MOTION TO DISMISS on the party, by depositing a copy thereof as noted below.

William Jacob Martin
N.N.C.C.
P.O. Box 7000
Carson City, NV 89702

[Signature]
Clerk of the Court

VJW

RECEIVED JUL 21 2021

FILED

2021 JUL 21 PM 2:43

William Martin #95529

NNCC

P.O. Box 7000

Carson City, NV 89702

Petitioner In Pro Se

SUE SEVON
COURT CLERK

BY *J. Bennett* DEPUTY

Tenth Judicial District Court
Churchill County, Nevada

William Martin,
Petitioner,
vs.
Perry Russell, et al.,
Respondents.

Case No. 19-10DC-0289A
Dept. No. 2
Petitioner's Reply To Respondents'
Answer And Opposition

Petitioner William Martin, hereby submits for filing his Reply to Respondents' Answer And Opposition To The Post Conviction Writ Of Habeas Corpus, filed by Respondents in the above-entitled case on July 6, 2021.

This Reply is made and based upon the attached Points And Authorities, and all other papers, pleadings and documents on file in this case.

Points And Authorities

I. Argument

A. Petitioner's Reply To Respondents' Answer

And Opposition To Ground One.

In their Answer and Opposition to Ground One, Respondents incorrectly argue that Petitioner's claim of ineffective assistance of counsel in Ground One is based on a "bald, unsupported assertion." And that the "filings in this matter are devoid of proof that defendant was insane." See Respondents' Answer and Opposition at p. 3.

These arguments by Respondents are disingenuous at best and should be rejected by this Court.

First, the record demonstrates that Petitioner was diagnosed with PTSD and a severe substance abuse disorder. Petitioner clearly cited to the portions of the record/exhibits that show this, in his Memorandum of Points and Authorities in support of his habeas petition.

Second, a significant aspect of Petitioner's claim in Ground One is that, due to ineffective assistance of counsel, he was denied a psychiatrist expert to assist him in his defense. The fact that there isn't more in the record concerning Petitioner's legal insanity at the time of the offense is because, he was deprived of the very psychiatrist expert he needed to develop the record for his insanity defense. Thus, Respondents are attempting to blame Petitioner, instead of his ineffective trial counsel, for the

lack of more psychiatric evidence in the record.

And, third, petitioner's claim of ineffective assistance of counsel is not belied by the record in this case. As petitioner has alleged in his habeas petition, he was mentally incompetent during his plea hearing, and when he signed his guilty plea memorandum. Petitioner will further argue this incompetency issue in Section "B," *Infra*.

B. Petitioner's Reply To Respondents' Answer And Opposition To Ground Two.

In their Answer and Opposition, Respondents contend that Ground Two should be dismissed because petitioner's "claims are belied by the record of the proceedings and the written guilty plea memorandum..." *Id.* at p. 4.

This argument is also without merit and should be rejected by this court.

Here, Respondent's fact finding is limited to observing petitioner's demeanor, and, as the Supreme Court indicated in *Pate v. Robinson*, 383 U.S. 375, 386 (1966), demeanor is not dispositive. "The existence of even a severe psychiatric defect is not always apparent to laymen." *Bruce v. Estelle*, 536 F.2d 1051, 1059 (5th Cir 1976). "One need not be

catatonic, raving or frothing, to be [legally incompetent]."
Lokos v. Capps, 625 F.2d 1258, 1267 (5th Cir. 1980).

Petitioner has alleged that he was suffering from PTSD and Psychotic Depression during his plea hearing and the signing of his guilty plea memorandum. The Respondents have not brought forth any valid evidence to controvert this claim of Petitioner's. Thus, Respondent's argument must also be rejected by this Court.

C. Petitioner's Reply To Respondent's Answer And Objection To Ground Three.

Respondents' argument in this matter is without merit. The record shows that Petitioner's trial counsel completely failed to raise the issue of Petitioner's incompetency and, counsel did not obtain a psychiatrist expert to assist Petitioner with his defense and to assist him at sentencing. (Emphasis added). Had Petitioner's trial counsel acted effectively, Petitioner would have had an expert psychiatrist's opinion on issues of mitigation at his sentencing hearing. Petitioner was denied fundamental fairness. See Ake v. Oklahoma, 470 U.S. 68, 76, 87 n. 13 (1985).

D. Petitioner's Reply To Respondent's Answer And Opposition To Ground Four.

In their Answer and Opposition, Respondents

incorrectly assert that Petitioner's claim in Ground Four must fail because Petitioner did not list with specificity what his appeal issues would have been. See Answer and Opposition at p. 4. This argument must also fail,

First, Petitioner is not able to adequately set forth all of his grounds for direct appeal in the instant petition because, his ineffective trial counsel failed to consult with him, after he specifically requested a direct appeal, and failed to perfect his appeal for him.

Therefore, Petitioner (a mentally ill defendant) could not have possibly known the full extent of the due process issues/violations that were ripe for appeal in this case, such as being convicted while incompetent, without consulting with counsel. Clearly, at the very least, Petitioner would have raised ~~at~~ two substantive due process claims on direct appeal, i.e., being deprived of a psychiatric expert for his defense and his being convicted and sentenced while he was incompetent. Again, Respondents are attempting to blame Petitioner for his trial counsel's ineffective, deficient performance.

E. Petitioner's Reply To Respondent's
Answer And Opposition To Ground
Five.

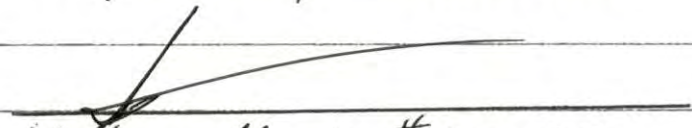
This ground has been addressed in
Petitioner's Opposition To the State's Motion
to Dismiss Post Conviction Writ and as
such will not be addressed herein.

II. Conclusion

Based upon the foregoing Petitioner
would request that his Petition For Writ
of Habeas Corpus (post-conviction) be granted.

Dated this 15th day of July, 2021.

Respectfully Submitted:


William Martin #95529
Petitioner In Pro Se

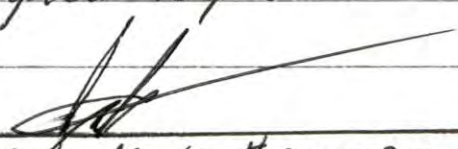
Certificate of Service By Mail

I, William Martin, hereby certify pursuant to N.R.C.P. 5(b), that on the 15th day of July, 2021, I mailed a true and correct copy of the foregoing Petitioner's Reply To Respondents' Answer And Opposition, in an envelope, first-class postage fully paid, addressed to:

Lore R. Mills
Chief Deputy ~~District~~ Attorney
165 North Ada Street
Fallon, Nevada 89406

Attorney General's Office
100 North Carson Street
Carson City, Nevada 89701

Signed By:


William Martin #95529

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CASE NO. 19-10DC-0289

DEPT. NO. I

FILED

2021 JUL 21 PM 2:44

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COURT CLERK

IN THE TENTH JUDICIAL DISTRICT COURT STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

WILLIAM MARTIN

Petitioner

v.

PERRY RUSSEL, ET AL.

Respondent

**DOCUMENTATION OF COURTESY
SERVICE BY CLERK'S OFFICE**

The undersigned, an employee of the Tenth Judicial District Court, hereby states that I provided a **COURTESY COPY** of the foregoing Petitioners Reply to Respondent's Answer and Opposition on the party, by depositing a copy thereof as noted below.

William Jacob Martin
N.N.C.C.
P.O. Box 7000
Carson City, NV 89702

Julie C. Benninghoff
Deputy Court Clerk

dep

William Martin
(Name)
95529
(I.D. No.)

Northern Nevada Correctional Center
Post Office Box 7000
Carson City, Nevada 89702

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BY J. Bennett DEPUTY

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IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

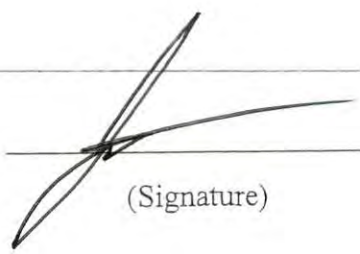
William Martin,
Petitioner/Defendant,
vs.
Perry Russell, et al.,
Respondent/Plaintiff

Case No.: 19-10DC-0289A
Dept. No. 1

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that I, William Martin appeal the
Judgment / Order entered on the 16th day of July, 20 21 by this
court.

Dated this 26 day of July, 20 21.


(Signature)

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCP Rule 5(b), I hereby certify that I am the Defendant named herein and that on this 26 day of July, 2021, I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the following:

Lore R. Mills County District Attorney

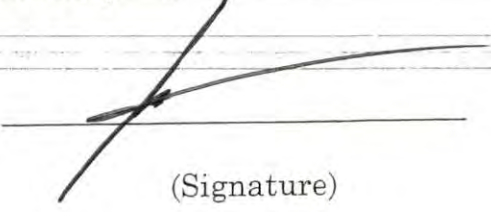
165 N. Ada Street

Fallen, Nevada 89406

Attorney General's Office

100 N. Carson St

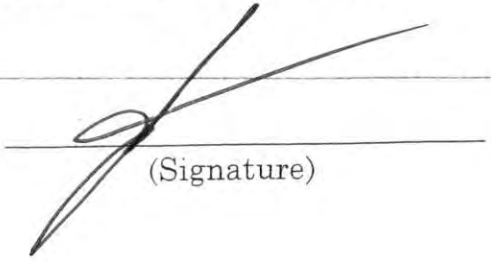
Carson City, NV 89701


(Signature)

AFFIRMATION PURSUANT TO NRS 239B.030

** I certify that the foregoing document DOES NOT contain the social security number of any persons.

7-26-21
(Date)


(Signature)

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Case No. 19-10DC-0289 A

Dept. No. 1

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SUE SEVON
COURT CLERK

BY J. Benning DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

WILLIAM JACOB MARTIN,

Appellant,

vs.

WARDEN PERRY RUSSEL et.al,

Respondent.

CASE APPEAL STATEMENT

1. Name of Appellant filing this Case Appeal Statement:

Prepared by District Court Clerk on Behalf of:
William Jacob Martin

2. What Judge Issued Decision, Judgment or Order?

Judge Jim Shirley
Tenth Judicial District Court

3. Who is/are the Appellant(s) and Name and Address of Appellant(s) Counsel?

William Jacob Martin #95529 Pro Per
N.N.C.C.
P.O. Box 7000
Carson City, NV 89702

1 4. Who is/are Respondent(s) and Name and Address of Respondent(s) Counsel?

2 Warden Perry Russel Office of the Attorney General
3 100 North Carson Street
4 Carson City, NV 89701

5 5. Are Counsel not licensed to Practice Law in Nevada? Yes No
6 If the answer is yes, has counsel been granted permission to appear under SCT 42?
7 Yes No (Attach copy of District Court Order granting permission)

8 6. Was Appellant Represented by Appointed or Retained Counsel at District Court?

9 Appointed Counsel
10 Retained Counsel
11 No Counsel

12 7. Is Appellant Represented by Appointed or Retained Counsel on Appeal?

13 Appointed Counsel
14 Retained Counsel
15 No Counsel

16 8. Was Appellant Granted leave to Proceed in Forma Pauperis? Yes No

17 Date of Order: N/A

18 9. When did the Proceedings Commence in the District Court? (i.e., date complaint,
19 indictment, information or petition was filed)

20 March 16, 2021 Petition for Writ of Habeas Corpus (Post-Conviction)

21 10. Provide Brief Description of Nature of Action; Result in District Court, Type of
22 Judgment or Order Being Appealed and Relief Granted by District Court: Counsel for
23 Appeal:

24 03/16/21: Petition for Writ of Habeas Corpus was filed (03/16/21).

25 05/20/21: The Court issued an Order Directing Response to the Churchill
26 County District Attorney.

27 06/28/21: Motion to Dismiss Post Conviction Writ as Untimely filed by
28 the Churchill County District Attorney.

07/06/21: Answer and Opposition to the Post Conviction Writ filed by the
Churchill County District Attorney.

07/16/21: The Court issued an Order Dismissing Petition for Writ of
Habeas Corpus.

1 11. Has the Case previously been the subject of an Appeal to or Original Writ Proceedings in
2 the Supreme Court? Yes No

If yes, provide caption and Supreme Court Docket Number of Prior Proceeding:

3 12. Does the Appeal Involve Child Custody or Visitation Issues?

4 Yes No

5 13. If this is a Civil Case, Does the Appeal Involve the Possibility of Settlement?

6 Yes No

7
8 Dated this 30th Day of July, 2021

9
10 Sue Sevon, Clerk of Court

11
12 Julie C. Benninghofe
13 Deputy Court Clerk
14 Tenth Judicial District Court
15 73 N. Maine Street
16 Fallon, NV. 89406
17 775-423-6088

RECEIVED AUG 16 2021

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA

2021 AUG 16 PM 12:43

WILLIAM JACOB MARTIN,
Appellant.

SUE SEYON
COURT CLERK

No. 83315

vs.

PERRY RUSSELL, WARDEN,
Respondent.

FILED

AUG 12 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

*ORDER DIRECTING TRANSMISSION OF RECORD
AND REGARDING BRIEFING*

Having reviewed the documents on file in this pro se appeal, this court has concluded that its review of the complete record is warranted. *See* NRAP 10(a)(1). Accordingly, the clerk of the district court shall have 30 days from the date of this order to transmit to the clerk of this court a certified copy of the complete trial court record of this appeal. *See* NRAP 11(a)(2). The record shall include copies of documentary exhibits submitted in the district court proceedings, but shall not include any physical, non-documentary exhibits or the original documentary exhibits. The record shall also include any presentence investigation reports submitted in a sealed envelope identifying the contents and marked confidential. *See* NRS 176.156(5).

Within 120 days, appellant may file either (1) a brief that complies with the requirements in NRAP 28(a) and NRAP 32; or (2) the "Informal Brief Form for Pro Se Parties" provided by the supreme court clerk. NRAP 31(a)(1). If no brief is submitted, the appeal may be decided on the record on appeal. NRAP 34(g). Respondent need not file a response to any brief filed by appellant, unless ordered to do so by this court. NRAP

46A(c). This court generally will not grant relief without providing an opportunity to file a response. *Id.*

It is so ORDERED.

1. J. J. J., C.J.

cc: William Jacob Martin
Attorney General/Carson City
Churchill County District Attorney/Fallon
Churchill County Clerk

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CASE NO. 19-10DC-0289
DEPT. 1

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM JACOB MARTIN,

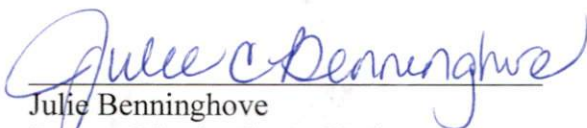
Defendant.

CERTIFICATE

I, TIFFANY JOSEPHS, Clerk of the District Court for the Tenth Judicial District Court of the State of Nevada, in and for the County of Churchill, do hereby certify that the preceding documents are copies of the original documents on file with the District Court.

DATED: This 2nd day of January, 2024.

TIFFANY JOSEPHS
Clerk of the District Court


Julie Benninghove
Deputy District Court Clerk