

FILED

56

APR 22 2010

leave to file  
CLERK OF COURT

Fredys A. Martinez, Pro  
Respondent

Electronically Filed  
Apr 26 2010 10:08 a.m.  
Trade K. Lindeman  
C-226586

State of Nevada  
Appellee

Dept 14

Notice of Appeal

The matter came on before the  
8th J.D.C. in and for the county of  
Clark in the above name case. Motion  
for Appointment of Counsel denied,  
the 9th day of April of 2010. In good  
faith. See Ellis v. U.S. 78 S.Ct 974 (1958)  
Citing, Caballero v. J.D.C., 167 P.3d  
415-123 Nev 316, (Nev. 2007).

DATE: 4.19.2010

28 U.S.C. § 1746.

L.C.C.

1200 Prison Rd.  
Love Lock NV  
8949

*[Signature]*

RECEIVED

APR 22 2010

CLERK OF THE COURT

APR 23 2010

ASTA

## STATE OF NEVADA,

Plaintiff(s),

vs.

**FREDYS A. MARTINEZ,**

Defendant(s),

Case No: C226586

Dept No: XIV

1. Appellant(s): FREDYS A. MARTINEZ

2. Judge: DONALD M. MOSLEY

3. Appellant(s): FREDYS A. MARTINEZ

**Counsel:**

Fredys A. Martinez #1003276  
1200 Prison Rd.  
Lovelock, NV 89419

#### 4. Respondent: THE STATE OF NEVADA

**Counsel:**

David Roger, District Attorney  
200 Lewis Ave.  
Las Vegas, NV 89101  
(702) 671-2700

5. Respondent's Attorney Licensed in Nevada: Yes

6. Appellant Represented by Appointed Counsel In District Court: Yes

1 7. Appellant Represented by Appointed Counsel On Appeal: N/A

2 8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

3 9. Date Commenced in District Court: September 29, 2006

4 10. Brief Description of the Nature of the Action: Criminal

5 Type of Judgment or Order Being Appealed: Misc. Order

6 11. Previous Appeal: Yes

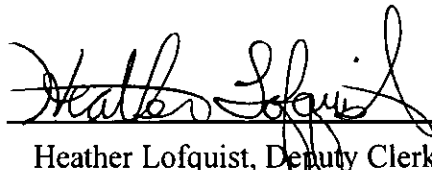
7 Supreme Court Docket Number(s): 49608

8 12. Child Custody or Visitation: N/A

9  
10 Dated This 23 day of April 2010.

11 Steven D. Grierson, Clerk of the Court

12  
13 By:

  
\_\_\_\_\_  
Heather Lofquist, Deputy Clerk

14 200 Lewis Ave

15 PO Box 551601

16 Las Vegas, Nevada 89155-1601

17 (702) 671-0512

DATE: 04/23/10  
CASE NO. 06-C-226586-C

I N D E X

TIME 4:35 PM  
JUDGE: Mosley, Donald M.

STATE OF NEVADA

[ ] vs Martinez, Freddy

[ ]

0001 D1 Freddy Martinez  
1200 Prison Road  
Lovelock, NV 89419

Pro Se

NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0001	09/29/06	IND /	(GRAND JURY) INDICTMENT Fee \$0.00				
0002	09/29/06	ARRN/INITIAL	ARRAIGNMENT	0001		10/05/06	
0003	09/29/06	WARR/INDICTMENT	WARRANT	0001		09/29/06	
0004	09/29/06	HEAR/GRAND JURY	INDICTMENT	0001	BW	09/29/06	
0005	10/03/06	BNCH/BENCH	WARRANT ISSUED	0001	QU	09/28/06	
0006	10/03/06	ORDR/ORDER OF	INTENT TO FORFEIT	0001		09/28/06	
0007	10/03/06	EIE /ENTRY	IN ERROR				
0008	10/03/06	BNCH/INDICTMENT	WARRANT RETURN	0001	QU	09/29/06	
0009	10/05/06	CALC/CALENDAR	CALL	0001		11/09/06	
0010	10/05/06	JURY/TRIAL BY	JURY (RV 11/9/06)	0001	VC	11/13/06	
0011	10/11/06	TRAN/REPORTER'S	TRANSCRIPT OF PROCEEDINGS - GRAND JURY VOLUME 1	0001		09/21/06	
0012	10/13/06	TRAN/REPORTER'S	TRANSCRIPT OF PROCEEDINGS - GRAND JURY VOLUME 2	0001		09/28/06	
0013	10/30/06	NOEV/NOTICE OF	EXHIBITS IN THE VAULT			09/28/06	
0014	11/09/06	CALC/CALENDAR	CALL	0001		11/30/06	
0015	11/09/06	JURY/TRIAL BY	JURY VJ 11/30/06	0001	VC	12/04/06	
0016	11/17/06	MOT /DEFT'S	MTN TO COMPEL DISCLOSURE/10	0001	GP	11/30/06	
0017	11/20/06	LIST/NOTICE OF	EXPERT WITNESSES	0001			
0018	11/20/06	LIST/NOTICE OF	WITNESSES	0001			
0019	11/28/06	OPPS/STATES	OPPOSITION TO DEFENDANTS MOTION TO COMPEL EXCULPATORY EVIDENCE	0001		11/30/06	
0020	11/30/06	CALC/CALENDAR	CALL VO 12/22/06	0001	VC	01/18/07	
0021	11/30/06	JURY/TRIAL BY	JURY VO 12/22/06	0001	VC	01/25/07	
0022	11/28/06	ORDR/ORDER	RELEASING MEDICAL RECORDS	0001		11/28/06	
0023	11/28/06	REQT/EX PARTE	MOTION FOR RELEASE OF MEDICAL RECORDS	0001			
0024	12/16/06	ASSG/Reassign	Case From Judge Bell To Judge BIXLER				
0025	12/23/06	JURY/TRIAL BY	JURY (VJ/1/25/07)	0001	VC	01/29/07	
0026	12/23/06	CALC/CALENDAR	CALL	0001		01/25/07	
0027	12/23/06	ORDR/ORDER	RE SETTING CRIMINAL JURY TRIALS PRESENTLY SCHEDULED ON JANUARY 25 2007	0001		12/23/06	Y
IN DEPT XXIV							
0028	01/18/07	LIST/DEFENDANTS	NOTICE OF WITNESSES	0001			
0029	01/25/07	ARRN/ENTRY OF	PLEA	0001	MT	02/08/07	
0030	02/15/07	CALC/CALENDAR	CALL (PREFERENTIAL)	0001		04/05/07	
0031	02/15/07	JURY/TRIAL BY	JURY (PREFERENTIAL) (VJ/4/5/07)	0001	VC	04/09/07	
0032	11/30/06	MOT /ALL	PENDING MOTIONS 11/30/06	0001		11/30/06	
0033	04/05/07	JURY/OVERFLOW	(24) NYIKOS / BATEMAN / HAMERS 2 DAYS / 8-10 WITNESSES/ NO OUT OF STATE	0001		04/06/07	
0034	04/06/07	JURY/TRIAL BY	JURY	0001		04/12/07	
0035	04/11/07	TRB /TRIAL	BEGINS	0001			
0036	04/11/07	JLST/DISTRICT	COURT JURY LIST	0001			

(Continued to page 2)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0037	04/12/07	SENT/SENTENCING	0001	GR	05/24/07	
0038	04/12/07	TRE /TRIAL ENDS	0001			
0039	04/12/07	PINU/PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL	0001			
0040	04/12/07	ACJL/AMENDED CRIMINAL JURY LIST	0001			
0041	04/12/07	INST/INSTRUCTIONS TO THE JURY	0001			
0042	04/11/07	ASSG/REASSIGNMENT OF JUDGE Bixler TO JUDGE Bell				
0043	04/12/07	JMNT/VERDICT (COUNTS 1, 2, AND 3)	0001		04/17/07	
0044	04/12/07	JMNT/VERDICT (COUNT 4)	S		04/17/07	
0045	04/24/07	NOEV/NOTICE OF EXHIBITS IN THE VAULT			04/11/07	
0046	05/31/07	CACL/CASE CLOSED			05/24/07	
0047	05/31/07	JMNT/JUDGMENT OF CONVICTION/ADMIN ASSESSMENT	0001		06/01/07	
0048	05/31/07	JMNT/JUDGMENT OF CONVICTION/GENETIC TESTING	0001		06/01/07	
0049	06/04/07	NOAS/DESIGNATION OF RECORD ON APPEAL	0001			
0050	06/05/07	NOAS/NOTICE OF APPEAL (SC 49608)	0001	AP	06/04/07	
0051	06/06/07	STAT/CASE APPEAL STATEMENT	0001			
0052	06/19/07	NOAS/NOTICE OF APPEAL (SC 49608)	0001	AP	06/19/07	
0053	06/19/07	STAT/CASE APPEAL STATEMENT	0001			
0054	06/28/07	ORDR/ORDER APPOINTING APPELLANT COUNSEL	0001		06/28/07	
0055	07/17/07	TRAN/REPORTER'S TRANSCRIPT ARRAIGNMENT	0001		10/05/06	
0056	07/25/07	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS	0001		01/30/07	
0057	07/25/07	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS	0001		01/25/07	
0058	08/03/07	TRAN/REPORTER'S TRANSCRIPT CALENDAR CALL	0001		04/05/07	
0059	08/10/07	TRAN/REPORTER'S TRANSCRIPT DEFENDANTS MOTION TO COMPEL DISCLOSURE AND CALENDAR CALL	0001		11/30/06	
0060	08/10/07	TRAN/REPORTER'S PARTIAL TRANSCRIPT OF JURY TRIAL DAY 1 VOLUME 1	0001		04/11/07	
0061	08/10/07	TRAN/REPORTER'S TRANSCRIPT SENTENCING	0001		05/24/07	
0062	08/10/07	TRAN/REPORTER'S TRANSCRIPT OF JURY TRIAL AND VERDICT DAY 2 VOLUME II	0001		04/12/07	
0063	08/13/07	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS	0001		02/08/07	
0064	08/13/07	EIE /ENTRY IN ERROR	0001			
0065	11/30/07	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS CALENDAR CALL	0001		04/05/07	
0066	01/04/08	TRAN/REPORTER'S TRANSCRIPT HEARING	0001		02/08/07	
0067	01/23/08	TRAN/REPORTER'S TRANSCRIPT CALENDAR CALL	0001		04/05/07	
0068	01/23/08	TRAN/REPORTER'S TRANSCRIPT CALENDAR CALL	0001		01/18/08	
0069	05/15/08	APCL/APPEAL TO SUPREME COURT: CLOSED (49608)			05/07/08	
0070	06/06/08	JMNT/CLERK'S CERTIFICATE/JUDGMENT AFFIRMED	0001		06/09/08	
0071	12/28/08	ASSG/Reassign Case From Judge Bell To Judge Hardcastle				
0072	06/23/09	CCPD/CASE CLOSED PER DEPARTMENT			06/23/09	
0073	10/26/09	ASSG/REASSIGNMENT OF JUDGE Hardcastle TO JUDGE Mosley				
0074	10/26/09	CASO/CASE (RE)OPENED			10/26/09	
0075	10/23/09	MOT /DEFT'S PRO PER MTN TO MAKE ADDITIONAL FUNDS	0001		11/09/09	
0076	11/03/09	OPPS/OPPOSITION TO DEFTS MTN TO MAKE ADDITIONAL FUNDS AVAILABLE FOR NDOC	0001			Y
		INMATES LEGAL ACCOUNT				
0077	01/06/10	ORDR/ORDER DENYING DEFTS MTN TO MAKE ADDITIONAL FUNDS AVAILABLE FOR NDOC	0001	HG	11/09/09	Y

(Continued to page 3)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER C
INMATES - SIC LEGAL ACCOUNT					
0078	04/02/10	MOT /DEFT'S PRO PER MTN FOR APPT OF CNSL/023	0001		04/14/10
0079	04/09/10	OPPS/STATES OPPOSITION TO DEFTS MTN FOR	0001		
		APPOINTMENT OF COUNSEL	0001		
0080	04/21/10	MOT /DEFT'S PRO PER MOTION TO VACATE A	0001		05/05/10
		J.O.C./24	0001		

## CRIMINAL COURT MINUTES

06-C-226586-C      STATE OF NEVADA      vs Martinez, Freddy

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09/29/06   08:30 AM   00   GRAND JURY INDICTMENT

HEARD BY: Michael A Cherry, Judge; Dept. 17

OFFICERS: Theresa Lee, Court Clerk  
Richard Kangas, Reporter/Recorder

PARTIES:                      STATE OF NEVADA  
001802   Jorgenson, Eric G.

Y  
Y

At this time, the State informed the Court that the Clark County Grand Jury had certain matters to present to the Court. Mr. Jorgenson stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. Court queried Mr. Ratzlaff re same, he concurred. The State presented Grand Jury Case Number #05BGJ145X to the Court. COURT ORDERED, the indictment may be filed and is assigned Case Number C226586, Department VII. State requested a warrant issued and \$500,000 BAIL set. COURT ORDERED, BENCH WARRANT WILL ISSUE, \$500,000 BOND. Mr. Jorgenson further stated deft is in custody. Exhibit(s) 1-3 lodged with Clerk of District Court. COURT ORDERED, matter set in Courtroom 1-A for Arraignment before Kevin Williams.

B.W. (CUSTODY)

10/5/06 1:30 P.M. INITIAL ARRAIGNMENT

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10/05/06   01:30 PM   00   INITIAL ARRAIGNMENT

HEARD BY: Kevin V Williams, Hearing Master; Dept. AA

OFFICERS: Pamela Humphrey/pdh, Court Clerk  
Kiara Schmidt, Reporter/Recorder  
VERONICA PELAS, Court Interpreter

PARTIES:                      STATE OF NEVADA  
005873   Benedict, Susan M.

Y  
Y

0001 D1   Martinez, Freddy  
PUBDEF   Public Defender  
009049   Hamers, Kathleen M.

Y  
Y  
Y

DEFT. MARTINEZ ARRAIGNED, PLED NOT GUILTY and INVOKED THE 60-DAY RULE. COURT ORDERED, matter set for trial. COURT FURTHER ORDERED, counsel has 21 days after the filing of the Preliminary Hearing Transcript to file writ.

CUSTODY

11/9/06 8:30 AM CALENDAR CALL - DEPT. VII

11/13/06 9:30 AM JURY TRIAL - DEPT. VII

## CRIMINAL COURT MINUTES

06-C-226586-C STATE OF NEVADA

vs Martinez, Freddy

CONTINUED FROM PAGE: 001

11/09/06 08:30 AM 00 CALENDAR CALL

HEARD BY: Stewart L. Bell, Judge; Dept. 7

OFFICERS: Sharon Chun, Relief Clerk  
Renee Vincent, Reporter/Recorder  
HECTOR VAZQUEZ-MENA, Court Interpreter

PARTIES:	STATE OF NEVADA	Y
	001648 Barker, David B.	Y
	0001 D1 Martinez, Freddy	Y
	PUBDEF Public Defender	Y
	009049 Hamers, Kathleen M.	Y

Ms. Hamers requested a trial continuance as she needs a statement from the Police. COURT SO ORDERED, jury trial of 11/13/06 VACATED and RESET.

CUSTODY

11/30/06 8:30 AM CALENDAR CALL

12/04/06 9:30 AM TRIAL BY JURY

11/30/06 08:30 AM 00 ALL PENDING MOTIONS 11/30/06

HEARD BY: Stewart L. Bell, Judge; Dept. 7

OFFICERS: Carole D'Aloia, Relief Clerk  
Renee Vincent, Reporter/Recorder  
DIEGO TRUJILLO, Court Interpreter

PARTIES:	STATE OF NEVADA	Y
	008213 Nyikos, Noreen	Y
	0001 D1 Martinez, Freddy	Y
	PUBDEF Public Defender	Y
	009049 Hamers, Kathleen M.	Y

DEFENDANT'S MOTION TO COMPEL DISCLOSURE...CALENDAR CALL

Following arguments by counsel, COURT ORDERED, motion GRANTED as to any compensation or favorable treatment received by any State witness in exchange for their cooperation; DENIED as to providing S.C.O.P.E. on any of the State's witnesses, unless they have run it for themselves, then they are instructed to share them with the defense; GRANTED as to any and all statements made by any State witness or any other person that is in any manner inconsistent with the written and/or recorded statements previously provided to the defense; and GRANTED as to any compensation a State's

CONTINUED ON PAGE: 003



## CRIMINAL COURT MINUTES

06-C-226586-C STATE OF NEVADA

vs Martinez, Freddy

CONTINUED FROM PAGE: 002

witness may have received. Ms. Hamers advised she just received the taped interview of the Defendant from the Las Vegas Metropolitan Police Department (LVMPD), advised it is inaudible and for that reason, she is not ready to proceed to trial and requested a continuance. Upon Court's inquiry, Ms. Nyikos advised the State does not object to the continuance. COURT ORDERED, trial date VACATED and RESET.

## CUSTODY

1/18/07 8:30 AM CALENDAR CALL

1/22/07 9:30 AM JURY TRIAL

01/25/07 08:30 AM 00 CALENDAR CALL

HEARD BY: James Bixler, Judge; Dept. 24

OFFICERS: Theresa Lee, Court Clerk  
Jackie Nelson, Reporter/Recorder  
MARIA U PETERS, Court Interpreter

PARTIES: STATE OF NEVADA  
007439 Martinovsky, Charles  
0001 D1 Martinez, Freddy  
PUBDEF Public Defender  
009424 Landis, Casey

Y  
Y  
Y  
Y  
Y

Mr. Landis advised case negotiated. The Guilty Plea Agreement is missing some pertinent information. Deft is ready to sign, and requested matter CONTINUED for entry of plea and vacate trial date, SO ORDERED.

## CUSTODY

1/30/07 8:30 A.M. ENTRY OF PLEA

## CRIMINAL COURT MINUTES

06-C-226586-C STATE OF NEVADA

vs Martinez, Freddy

CONTINUED FROM PAGE: 003

01/30/07 08:30 AM 00 ENTRY OF PLEA

HEARD BY: James Bixler, Judge; Dept. 24

OFFICERS: Theresa Lee, Court Clerk  
Jackie Nelson, Reporter/Recorder  
Maria Peralta De Gomez, Court Interpreter

PARTIES: STATE OF NEVADA  
009755 Bauman, Eric A.  
0001 D1 Martinez, Freddy  
PUBDEF Public Defender  
009049 Hamers, Kathleen M.

Y  
Y  
Y  
Y  
Y

Two (2) Guilty Plea Agreements (English and Spanish) FILED IN OPEN COURT. NEGOTIATIONS: Deft will plead guilty to one count of Sexual Assault (F), State retains right to argue. Amended Indictment FILED IN OPEN COURT. DEFT. MARTINEZ ARRAIGNED AND PLED GUILTY TO CT 1 of the Amended Information, CT 1 - SEXUAL ASSAULT (F). Upon examination of deft., COURT ORDERED, based upon the deft's answers to the questions, the Court cannot accept his plea. Deft is indicating he is not guilty, and the Court needs a factual basis for his plea. COURT ORDERED, matter CONTINUED.

LATER, Court recalled matter. Ms. Hamers stated deft had a change of heart and requested matter continued to speak with her client and see where they are at with this case. COURT ORDERED, matter CONTINUED at the request of Ms. Hamers. Court inquired if counsel want to take this as an Alford plea. Ms. Hamers requested the continuance, SO ORDERED.

CUSTODY

CONTINUED TO: 02/08/07 08:30 AM 01

## CRIMINAL COURT MINUTES

06-C-226586-C      STATE OF NEVADA      vs Martinez, Freddy  
CONTINUED FROM PAGE: 004

02/08/07 08:30 AM 01 ENTRY OF PLEA

HEARD BY: James Bixler, Judge; Dept. 24

OFFICERS: Theresa Lee, Court Clerk  
Bill Nelson, Reporter/Recorder  
M. BERRY, Court Interpreter

PARTIES:	STATE OF NEVADA	Y
	008213 Nyikos, Noreen	Y
	0001 D1 Martinez, Freddy	Y
	PUBDEF Public Defender	Y
	009049 Hamers, Kathleen M.	Y

Ms. Hamers stated the case was negotiated, but in speaking with deft, he is requesting a trial date. Ms. Nyikos stated her offer is revoked. Upon Court's directive, Ms. Hamers put the offer on the record, State offered one count of Sexual Assault without the use of a deadly weapon, possible sentence 2-10 years. Upon Court's directive, Ms. Nyikos stated the possible sentence deft could receive on all four counts, including a possible life sentence. Court informed deft, before he rejects the offer, the Court wants to make sure he understands what he is doing. Deft stated he absolutely wants a trial date. COURT ORDERED, trial date set. Ms. Nyikos requested the trial date preferential, SO ORDERED.

## CUSTODY

4/5/07 8:30 A.M. CALENDAR CALL (PREFERENTIAL)

4/9/07 10:00 A.M. TRIAL BY JURY (PREFERENTIAL)

## CRIMINAL COURT MINUTES

06-C-226586-C      STATE OF NEVADA      vs Martinez, Freddy  
CONTINUED FROM PAGE: 005

04/05/07 08:30 AM 00 CALENDAR CALL (PREFERENTIAL)

HEARD BY: James Bixler, Judge; Dept. 24

OFFICERS: Theresa Lee, Court Clerk  
Lee Bahr, Reporter/Recorder  
MARIA U PETERS, Court Interpreter

PARTIES:	STATE OF NEVADA	Y
	008213 Nyikos, Noreen	Y
	0001 D1 Martinez, Freddy	Y
	PUBDEF Public Defender	Y
	009424 Landis, Casey	Y

State answered ready for trial, 3 days, 8-10- witnesses, one (1) out-of-state witness. Court noted with an out-of-state witness, the case cannot go to Overflow. Ms. Nyikos stated she spoke to Judge Bell and Charmaine, his JEA, and they will make an exception if the out-of-state witnesses do not create scheduling problems with setting the trial. COURT ORDERED, this case is TRANSFERRED to the Overflow Dept. for trial. Mr. Landis stated Kathleen Hamers is trial counsel. Ms. Nyikos stated Sam Bateman is co-counsel with her. Ms. Nyikos further stated in Dept. VII the case should be done in two days. Also she is looking for a Wednesday start date next week.

## CUSTODY

4/6/07 9:00 A.M. OVERFLOW JURY TRIAL from Dept. 24, NYIKOS, BATEMAN, DDAs, K. HAMERS, DPD / 2 DAYS / 8-10 WITNESSES, 1 OUT-OF-STATE

04/06/07 09:00 AM 00 OVERFLOW (24) NYIKOS / BATEMAN / HAMERS  
2 DAYS / 8-10 WITNESSES/ NO OUT OF STATE

HEARD BY: Stewart L. Bell, Judge; Dept. 7

OFFICERS: Teri Braegelmann, Court Clerk  
Renee Vincent, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	008213 Nyikos, Noreen	Y
	0001 D1 Martinez, Freddy	Y
	PUBDEF Public Defender	Y
	009049 Hamers, Kathleen M.	Y

COURT ORDERED, matter SET for trial on Wednesday.

## CUSTODY

## CRIMINAL COURT MINUTES

06-C-226586-C STATE OF NEVADA

vs Martinez, Freddy

CONTINUED FROM PAGE: 006

04/11/07 9:00 AM JURY TRIAL (DEPT 7)

04/11/07 09:30 AM 00 TRIAL BY JURY

HEARD BY: Stewart L. Bell, Judge; Dept. 7

OFFICERS: Tina Hurd, Court Clerk  
 Renee Vincent, Reporter/Recorder  
 DIVA REALMUTO, Court Interpreter

PARTIES:	STATE OF NEVADA	Y
	008213 Nyikos, Noreen	Y
	008764 Bateman, Samuel G.	Y
	0001 D1 Martinez, Freddy	Y
	PUBDEF Public Defender	Y
	009049 Hamers, Kathleen M.	Y
	009280 Paulson, Ronald S.	Y

Court Interpreters also present throughout trial: Leland Page and Anita D'Angelo with Deft. Martinez; Sylvia Page with witnesses.

9:15 A.M.--OUTSIDE THE PRESENCE OF THE JURY VENIRE, Mr. Bateman advised they have witness availability issues. Ms. Nyikos advised they have a nurse that absolutely cannot be here until tomorrow, however, the case will be over tomorrow. 9:34 a.m.--Jury venire present. Introductions by Court and counsel. Clerk called roll of the venire; voir dire oath administered. Jury selection commenced. 11:05 a.m.--Thirteen (13) jurors selected and sworn. Court thanked and excused the remaining venire. Court read the opening charge to the Jury. Opening statements by Ms. Nyikos and Mr. Paulson. 11:47 a.m.--Jury admonished and excused for lunch, to return at 12:45 p.m. this afternoon. OUTSIDE THE PRESENCE OF THE JURY, Court ADMONISHED Deft. Martinez regarding his right to not be compelled to testify. 11:50 a.m.--Court adjourned for lunch.

12:48 P.M.--Court reconvened OUTSIDE THE PRESENCE OF THE JURY. State's proposed exhibit 24 opened in the presence of all counsel and contents marked. 12:51 p.m.--Jury present. Testimony and exhibits presented. (See worksheets.) 3:17 p.m.--OUTSIDE THE PRESENCE OF THE JURY, Ms. Hamers advised, during the testimony of Jose Castillo and Bianca Hernandez statements were made regarding Deft. being in jail and being high on the day in question. Ms. Hamers stated she believes these statements have prejudiced the Jury against Deft. and moved for a mistrial. COURT ORDERED, DENIED. Ms. Hamers advised, when riding the elevator up after lunch, a juror rode up with them and commented the lunch hour was over too quickly. Ms. Hamers stated she advised the juror they could not talk to her. Court acknowledged. Mr. Bateman advised CSA Grover brought the exhibit packages in today and lodged them with the Clerk, however, they were booked in by

CONTINUED ON PAGE: 008

## CRIMINAL COURT MINUTES

06-C-226586-C STATE OF NEVADA

vs Martinez, Freddy

CONTINUED FROM PAGE: 007

Officer Goddard who cannot come in today. Mr. Bateman advised defense counsel has stipulated to the chain of custody. Ms. Hamers concurred. Conference at the bench. 3:22 p.m.--Jury present. Further testimony and exhibits presented. 4:39 p.m.--Court admonished the Jury and excused them for the evening, to return at 9:00 a.m. tomorrow morning. OUTSIDE THE PRESENCE OF THE JURY, Mr. Paulson addressed an issue regarding witness William McPheeters. Court advised the bailiff saw one of the jurors chatting with this witness and brought it to the Court's attention, however, the issue was resolved and Mr. McPheeters testified. Mr. Paulson advised he spoke with Mr. McPheeters who advised, as far as he was concerned, the juror did not know he was a witness and he did not know she was a juror. Mr. Paulson advised Mr. McPheeters indicated the conversation was only about how cold it was in the building and about Las Vegas in general. Colloquy regarding Jury Instructions. COURT ORDERED, counsel to return at 8:45 a.m. to settle Instructions and they will continue with the testimony of Detective Chavez. 4:45 p.m.--Court adjourned.

## CUSTODY

CONTINUED TO: 04/12/07 09:00 AM 01

04/12/07 09:00 AM 01 TRIAL BY JURY

HEARD BY: Stewart L. Bell, Judge; Dept. 7

OFFICERS: Tina Hurd, Court Clerk  
 Renee Vincent, Reporter/Recorder  
 DIVA REALMUTO, Court Interpreter

PARTIES: STATE OF NEVADA  
 008213 Nyikos, Noreen  
 008764 Bateman, Samuel G.  
 0001 D1 Martinez, Freddy  
 PUBDEF Public Defender  
 009049 Hamers, Kathleen M.  
 009280 Paulson, Ronald S.

Y  
 Y  
 Y  
 Y  
 Y  
 Y  
 Y

Court Interpreter Anita D'Angelo also present with Deft. Martinez.

8:47 A.M.--Court reconvened with all present as before OUTSIDE THE PRESENCE OF THE JURY. Jury Instructions settled on the record. 9:21 a.m.--Jury present. Further testimony and exhibits presented. (See worksheets.) Court instructed the Jury. Closing arguments by counsel. Bailiff sworn to take charge of the Jury. Clerk selected the alternate by random drawing: Juror #11 - Laura Rodriguez. 11:53 a.m.--Jury retired to deliberate.

5:43 P.M.--Court reconvened with all present as before. Court Interpreter Sylvia Page present with Deft. Martinez. Jury returned with VERDICTS as

CONTINUED ON PAGE: 009

## CRIMINAL COURT MINUTES

06-C-226586-C STATE OF NEVADA

vs Martinez, Freddy

CONTINUED FROM PAGE: 008

follow:

GUILTY of Count 1 - BURGLARY WHILE IN POSSESSION OF A WEAPON (F);

GUILTY of Count 2 - BATTERY WITH USE OF A DEADLY WEAPON (F);

(F);  
GUILTY of Count 3 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

Count 4 - NOT GUILTY.

Court thanked and excused the Jury. OUTSIDE THE PRESENCE OF THE JURY,  
COURT ORDERED, Deft. Martinez REMANDED TO CUSTODY WITHOUT BAIL; matter set  
for sentencing.

CUSTODY

5-24-07 8:30 AM SENTENCING

05/24/07 08:30 AM 00 SENTENCING

HEARD BY: Stewart L. Bell, Judge; Dept. 7

OFFICERS: Tina Hurd, Court Clerk  
Renee Vincent, Reporter/Recorder  
Guillermo Palomo, Court InterpreterPARTIES: STATE OF NEVADA  
009662 Rickert, David J.  
  
0001 D1 Martinez, Freddy  
PUBDEF Public Defender  
009049 Hamers, Kathleen M.Y  
Y  
  
Y  
Y  
YDEFT. MARTINEZ ADJUDGED GUILTY OF COUNT 1 - BURGLARY WHILE IN POSSESSION OF  
A WEAPON (F), COUNT 2 - BATTERY WITH USE OF A DEADLY WEAPON (F) and COUNT 3  
- FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (F). Matter argued  
and submitted. COURT ORDERED, in addition to the \$25.00 Administrative  
Assessment fee, \$150.00 DNA Analysis fee and submit to Genetic Marker  
testing, Deft. SENTENCED to the Nevada Department of Corrections (NDC) as  
follows:Count 1 - to a MINIMUM of SIXTY (60) MONTHS and a MAXIMUM of ONE HUNDRED  
EIGHTY (180) MONTHS;Count 2 - to a MINIMUM of FORTY EIGHT (48) MONTHS and a MAXIMUM of ONE  
HUNDRED TWENTY (120) MONTHS;Count 3 - to a MINIMUM of SIXTY (60) MONTHS and a MAXIMUM term of LIFE  
plus an equal and CONSECUTIVE MINIMUM of SIXTY (60) MONTHS and a MAXIMUM  
term of LIFE for use of a deadly weapon.Counts 1, 2 & 3 to all be served CONCURRENTLY with each other with 281  
DAYS credit for time served.

BOND, if any, EXONERATED.

CASE CLOSED

## CRIMINAL COURT MINUTES

06-C-226586-C      STATE OF NEVADA      vs Martinez, Freddy  
CONTINUED FROM PAGE: 009

11/09/09    09:00 AM    00    DEFT'S PRO PER MTN TO MAKE ADDITIONAL FUNDS

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk  
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	010539    Chen, Alexander G.	Y
	0001 D1    Martinez, Freddy	N
	PUBDEF    Public Defender	Y
	007709    Frierson, Jason M.	Y

Court noted Defendant is in prison and not present today, that he gives no specifics and the time has passed for a Writ of Habeas Corpus. As the circumstances do not warrant, COURT ORDERED, Pro Per Motion DENIED.

NDC

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04/14/10    09:00 AM    00    DEFT'S PRO PER MTN FOR APPT OF CNSL/023

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Roshonda Mayfield, Relief Clerk  
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004232    Carroll, Thomas M.	Y

Court advised, this is a pro per motion where the Deft. is requesting to have counsel appointed. Upon review it appears the writ is time barred and there is no need for appointment of counsel. Therefore, COURT ORDERED, motion DENIED.

NDC



04/23/10  
CASE NO. 06-C-226586-C

E X H I B I T S

4:35 PM  
CASE STATUS: REOPENED

STATE OF NEVADA

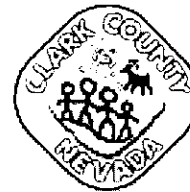
[ ] vs Martinez, Freddy

[ ]

NO.	CODE	EXHIBIT DESCRIPTION	SUB	OF/OB	DATE	S
0001	PG	/GRAND JURY 1-3		/	10/31/06	V
0002	P1	/PHOTO		/	99/99/99	V
0003	P2	/PHOTO		/	99/99/99	V
0004	P3	/PHOTO		/	99/99/99	V
0005	P4	/PHOTO		/	99/99/99	V
0006	P5	/PHOTO		/	99/99/99	V
0007	P6	/PHOTO		/	99/99/99	V
0008	P7	/PHOTO		/	99/99/99	V
0009	P8	/PHOTO		/	99/99/99	V
0010	P9	/PHOTO		/	99/99/99	V
0011	P10	/PHOTO		/	99/99/99	V
0012	P11	/PHOTO		/	99/99/99	V
0013	P12	/PHOTO		/	99/99/99	V
0014	P13	/PHOTO		/	99/99/99	V
0015	P14	/PHOTO		/	99/99/99	V
0016	P15	/PHOTO		/	99/99/99	V
0017	P16	/PHOTO (CAR)		AD/NO	04/11/07	V
0018	P17	/PHOTO (CAR W/LIC PL)		AD/NO	04/11/07	V
0019	P18	/PHOTO (GAS CAN)		AD/NO	04/11/07	V
0020	P20	/BUCCAL SWABS (SEALED)		AD/NO	04/11/07	V
0021	P21	/SEX ASSAULT KIT (SEALED)		AD/NO	04/11/07	V
0022	P22	/EVID BAG CONT CD-22A (SEALED)		/	99/99/99	V
0023	P23	/EVID BAG CONT VIC CLTHNG (SEALED)		/	99/99/99	V
0024	P24	/EVID BOX		/	99/99/99	V
0025	P24A	/SHOES & SOCKS (INSIDE BAG)		/	99/99/99	V
0026	P24B	/UNDERWEAR (INSIDE BAG)		/	99/99/99	V
0027	P24C	/SHIRT (GRAY & WHITE) TANKTOP (IN BAG)		/	99/99/99	V
0028	P24D	/JEANS/BELT/BASEBALL CAP (BAG)		/	99/99/99	V
0029	P24E	/EVID ENV & CONTENTS (BLACK FOLDING KNFE)		AD/NO	04/11/07	V
0030	P25	/EVID BAG		/	99/99/99	V
0031	P25A	/BLACK & GRAY FLIP FLOPS		/	99/99/99	V
0032	P26	/LG COLOR PHOTO		AD/NO	04/12/07	V
0033	P27	/LG COLOR PHOTO		AD/NO	04/12/07	V
0034	P28	/LG COLOR PHOTO		AD/NO	04/12/07	V
0035	P29	/LG COLOR PHOTO		AD/NO	04/12/07	V
0036	P30	/LG COLOR PHOTO		AD/NO	04/12/07	V
0037	P31	/LG COLOR PHOTO		AD/NO	04/12/07	V
0038	P32	/LG COLOR PHOTO		AD/NO	04/12/07	V
0039	P33	/DVD		AD/ST	04/12/07	V
0040	P34	/TRANSCRIPT		AD/ST	04/12/07	V
0041	PCT1	/QUEST FROM JUROR #10		AD/NO	04/11/07	V
0042	PCT2	/QUEST FROM JUROR #6		AD/NO	04/12/07	V
0043	PCT3	/QUEST FROM JUROR #6		AD/NO	04/12/07	V
0044	PCT4	/QUEST FROM JUROR ?		AD/NO	04/12/07	V
0045	PCT5	/QUEST FROM JUROR #4		AD/NO	04/12/07	V
0046	PCT6	/NOTE FROM JURY DURING DELIBERATIONS		AD/NO	04/12/07	V
0047	PCT7	/NOTE FROM JURY DURING DELIBERATIONS		AD/NO	04/12/07	V
0048	PCT8	/NOTE FROM JURY DURING DELIBERATIONS		AD/NO	04/12/07	V



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE  
**NOTICE OF DEFICIENCY**  
ON APPEAL TO NEVADA SUPREME COURT



FREDYS A. MARTINEZ #1003276  
1200 PRISON RD  
LOVELOCK, NV 89419

DATE: April 23, 2010  
CASE: C226586

RE CASE: STATE OF NEVADA vs. FREDYS A. MARTINEZ

NOTICE OF APPEAL FILED: April 22, 2010

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

☐ Case Appeal Statement

- NRAP 3 (a)(1), Form 2

☒ Order

☒ Notice of Entry of Order

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NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (2) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

# Certification of Copy

**State of Nevada** } **SS:**  
**County of Clark** }

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT  
DOCKET ENTRIES; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY


STATE OF NEVADA,  
Plaintiff(s),  
vs.  
FREDYS A. MARTINEZ,  
Defendant(s),

)  
)  
) Case No: C226586  
) Dept No: XIV  
)  
)  
)  
)  
)  
)

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 23 day of April 2010.

Steven D. Grierson, Clerk of the Court

  
Heather Lofquist, Deputy Clerk