

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 WILBURT HICKMAN,

4 Appellant,

5
6 vs.

7 THE STATE OF NEVADA,

8 Respondent.

Case No. 80596

Electronically Filed
Mar 06 2020 08:26 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

9
10 **DOCKETING STATEMENT**
11 **CRIMINAL APPEALS**

(Including appeals from pretrial and
post-conviction rulings and other
requests for post-conviction relief)

12 **GENERAL INFORMATION**

13 Appellants must complete this docketing statement in compliance with
14 NRAP 14(a). The purpose of the docketing statement is to assist the Supreme
15 Court in screening jurisdiction, identifying issues on appeal, assessing
16 presumptive assignment to the Court of Appeals under NRAP 17, scheduling
17 cases for oral argument, classifying cases for expedited treatment and
18 assignment to the Court of Appeals, and compiling statistical information.

19 **WARNING**

20 This statement must be completed fully, accurately and on time. NRAP
21 14(c). The Supreme Court may impose sanctions on counsel or appellant if it
22 appears that the information provided is incomplete or inaccurate. *Id.* Failure
23 to fill out the statement completely or to file it in a timely manner constitutes
24 grounds for the imposition of sanctions.
25
26
27
28

1. **Judicial District:** Eighth **County:** Clark
Judge: Carolyn Ellsworth **District Ct. Case No.:** C-12-278699-1

2. If the defendant was given a sentence,

(a) what is the sentence?

Appellant Wilburt Hickman convicted of Battery With the Use of a Deadly Weapon in violation of NRS 200.481, Battery With Use of a Deadly Weapon Resulting in Substantial Bodily Harm in violation of NRS 200.481(2)(e), six counts Assault With a Deadly Weapon in violation of NRS 200.471, and Burglary in violation of NRS 205.060.

(b) has the sentence been stayed pending appeal?

No.

(c) was defendant admitted to bail pending appeal?

No.

3. Was counsel in the district court appointed ☒ or retained ☐ ?

4. Attorney(s) filing this docketing statement:

Attorney(s): Alina M. Shell **Telephone:** (702) 728-5300

Firm: McLetchie Law

Address: 701 East Bridger Avenue, Suite 520

Las Vegas, Nevada 89101

Client(s): Wilburt Hickman

5. Is appellate counsel appointed ☒ or retained ☐ ?

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

///

1 **6. Attorney(s) representing respondent(s):**

2 **Attorney(s):** Alexander G. Chen **Telephone:** (702) 671-2500

3 **Firm:** Office of the Clark County District Attorney

4 **Address:** 200 Lewis Avenue, Third Floor
Las Vegas, NV 89155

5 **Client(s):** The State of Nevada

6 **Attorney(s):** Aaron Ford

Telephone: (775) 684-1100

7 **Firm:** Office of the Attorney General

8 **Address:** 100 North Carson Street
Carson City, NV 89701

9 **Client(s):** The State of Nevada

10 **7. Nature of disposition below (check all that apply):**

- 11 ☐ Judgment after bench trial ☐ Grant of pretrial habeas
12 ☐ Judgment after jury verdict ☐ Grant of motion to suppress evidence
13 ☐ Judgment upon guilty plea ☒ Post conviction habeas (NRS Ch.34)
14 ☐ Grant of pretrial motion to dismiss ☐ grant ☒ denial
15 ☐ Parole/probation revocation ☐ Other disposition (specify):
16 ☐ Motion for new trial
17 ☐ grant ☐ denial
18 ☐ Motion to withdraw guilty plea
19 ☐ grant ☐ denial

20 **8. Does this appeal raise issues concerning any of the following? n/a**

- 21 ☐ death sentence ☐ juvenile offender
22 ☐ life sentence ☐ pretrial proceedings

23 **9. Expedited appeals:** The court may decide to expedite the
24 appellate process in this matter. Are you in favor of proceeding in such
25 manner?

- 26 ☐ Yes ☒ No

27 ///

28 ///

1 **10. Pending and prior proceedings in this court.** List the case
2 name and docket number of all appeals or original proceedings
3 presently or previously pending before this court which are related
4 to this appeal (e.g., separate appeals by co-defendants, appeal after
5 post- conviction proceedings):

- 6 • *Wilburt Hickman v. State of Nevada*, Nevada Supreme Court
7 Case No. 64776; and
- 8 • *Wilburt Hickman v. State of Nevada*, Nevada Supreme Court
9 Case No. 64776-COA

10 **11. Pending and prior proceedings in other courts.** List the case
11 name, number and court of all pending and prior proceedings in
12 other courts that are related to this appeal (e.g., habeas corpus
13 proceedings in state or federal court, bifurcated proceedings against
14 co-defendants):

15 **n/a.**

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

18 Appellant Wilburt Hickman submitted his Petition for Writ of Habeas
19 Corpus (post-conviction relief) on March 25, 2016. Appellant Wilburt
20 Hickman submitted his Supplemental Petition for Writ of Habeas Corpus
21 (Post-Conviction) on April 28, 2017. Appellant Wilburt Hickman submitted
22 a Supplement to Supplemental Petition for Writ of Habeas Corpus (Post-
23 Conviction) on June 14, 2018. The district court conducted an evidentiary
24 hearing on September 27, 2019 on Appellant's claims. On January 13, 2020,
25 the district court entered an Order denying his Petition for Writ of Habeas
26 Corpus (Post-Conviction). Appellant Wilburt Hickman appeals from this
27 denial of Post-Conviction Relief.
28

1
2 **13. Issues on appeal.** State specifically all issues in this appeal:

3 Appellant Wilburt Hickman appeals the district court's order denying
4 the claims raised in his supplemental petition for a writ of habeas corpus.

5 Those claims are:

6
7 **1. Whether the district court erred in denying Petitioner Wilburt**
8 **Hickman's post-conviction petition for writ of habeas corpus where:**

- 9 **a.** Trial counsel failed to conduct adequate investigation;
10 **b.** Trial counsel failed to investigate Mr. Hickman's mental health
11 history; and
12 **c.** Failed to provide mitigating evidence of Mr. Hickman's serious
13 history of mental health issues at sentencing.
14

15
16 **14. Constitutional issues.** If this appeal challenges the constitutionality of
17 a statute, and the state, any state agency, or any officer or employee
18 thereof is not a party to this appeal, have you notified the clerk of this
19 court and the attorney general in accordance with NRAP 44 and NRS
20 30.130?

21 ☒ N/A

22 ☐ No

23 ☐ Yes

24 If not, explain:

25
26 **15. Assignment to the Court of Appeals or retention in the Supreme**
27 **Court.** Briefly set forth whether the matter is presumptively retained by
28 the Supreme Court or assigned to the Court of Appeals under NRAP 17,
and cite the subparagraph(s) of the Rule under which the matter falls. If
appellant believes that the Supreme Court should retain the case despite its

1 presumptive assignment to the Court of Appeals, identify the specific
2 issue(s) or circumstance(s) that warrant retaining the case, and include an
3 explanation of their importance or significance:

4 This case is presumptively retained by the Supreme Court pursuant to
5 Nevada Rule of Appellate Procedure 17(a)(2) because it is an appeal from
6 the denial of a post-conviction petition for a writ of habeas corpus.

7 **16. Issues of first impression or of public interest.** Does this
8 appeal present a substantial legal issue of first impression in this
9 jurisdiction or one affecting an important public interest?

10 First impression: ☐ Yes

☒ No

11 Public interest: ☒ Yes

☐ No

12 **17. Length of Trial.** If this action proceeded to trial or evidentiary
13 hearing in the district court, how many days did the trial or
14 evidentiary hearing last?

15 Five-day jury trial and one-day evidentiary hearing on Mr. Hickman's
16 petition for writ of habeas corpus (post-conviction).

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

☐ Yes

☒ No

19 **TIMELINESS OF NOTICE OF APPEAL**

20 **19. Date district court announced decision, sentence or order**
21 **appealed from:**

22 January 10, 2020.

23
24 **20. Date of entry of written judgment or order appealed from:**

25 January 13, 2020.

26 ///

1 **21. If this appeal is from an order granting or denying a petition**
2 **for a writ of habeas corpus, indicate the date written notice of**
3 **entry of judgment or order was served by the district court,**
4 (a) Was it served by delivery ☐ or by mail ☒

5 **22. If the time for filing the notice of appeal was tolled by a post-**
6 **judgment motion,**

7 (a) Specify the type of motion, the date of filing of the motion:

8 ☐ Arrest Judgment _____ Date of filing: _____

9 ☐ New trial (newly
10 discovered evidence) _____ Date of filing: _____

11 ☐ New trial (other grounds) _____ Date of filing: _____

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

13 **23. Date of notice of appeal filed:** February 12, 2020.

14 **24. Specify statute or rule governing the time limit for filing the**
15 **notice of appeal, e.g., NRAP 4(b), NRS 34.560, NRS 34.575, NRS**
16 **177.015(2), or other**

17 The time limit for filing the notice of appeal in this matter is governed
18 by Nev. Rev. Stat. § 34.575(1) and Nevada Rule of Appellate Procedure
19 4(b)(1)(A).

20 SUBSTANTIVE APPEALABILITY

21 **25. Specify the statute, rule, or other authority that grants this court**
22 **jurisdiction to review from:**

23 NRS 177.015(1)(b) _____ NRS 34.560 _____

24 NRS 177.015(1)(c) _____ NRS 34.575(1) X

25 NRS 177.015(2) _____ NRS 34.560(2) _____

26 NRS 177.015(3) _____ Other (specify) NRAP 4

27 NRS 177.055 _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

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

Wilburt Hickman

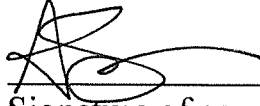
Name of Appellant

3-4-2020

Date

Alina M. Shell

Name of counsel of record



Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 6th day of March, 2020, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

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

Alexander G. Chen
Office of the Clark County District Attorney
200 Lewis Avenue, Third Floor
Las Vegas, NV 89155

Aaron Ford
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

Dated this 6th day of March, 2020.



Signature