

William Martin

# 95529

(I.D. No.)

Northern Nevada Correctional Center

Post Office Box 7000

Carson City, Nevada 89702

FILED

2021 JUL 29 PM 12:12

SUE SEYON  
COURT CLERK

Electronically Filed  
Aug 03 2021 01:55 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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, 2021 by this  
court.

Dated this 26 day of July, 2021.

(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:

Lane R. Mills County District Attorney


165 N. Ada Street

Fallon, Nevada 89406

Attorney General's Office

100 N. Carson St

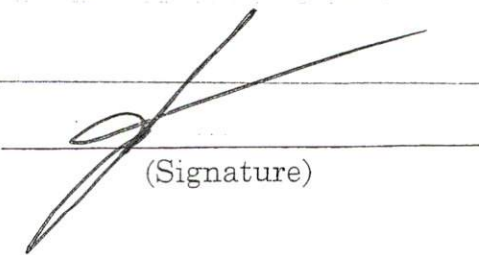
Carson City, NV 89701

  
(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)

Case No. 19-10DC-0289 A

Dept. No. 1

FILED

2021 JUL 30 AM 8:36

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

100 North Carson Street

3 Carson City, NV 89701

4  
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?

☐ 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: N/A

17 9. When did the Proceedings Commence in the District Court? (i.e., date complaint,  
18 indictment, information or petition was filed)

19 March 16, 2021 Petition for Writ of Habeas Corpus (Post-Conviction)

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.

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 30<sup>th</sup> Day of July, 2021

9  
10 Sue Sevon, Clerk of Court

11  
12 Julie C. Benninghoff  
13 Deputy Court Clerk  
14 Tenth Judicial District Court  
15 73 N. Maine Street  
16 Fallon, NV. 89406  
17 775-423-6088  
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# Churchill Case Summary

## State of Nevada, Plaintiff, vs. William Jacob Martin, Defendant.

Court: 19-10DC-0289

Agency: 10th Judicial District Court -  
Department 1

Law: C17-07611

CaseID: 19-289

Type: Felony

Received Date: 3/6/2019

Status: Order After Further Proceedings

Status Date: 7/16/2021

Age: 877 days Active Age: 233 days

### Charges

#### 1. 205.060(2) - Burglary Occurred: 12/21/2017

Felony Category B 1 1/29/2018 12:00:00 PM

#### **Attribute**

Crimes Against Property

Martin, William Jacob Defendant

Plea: Guilty Plea Date: 4/18/2019 Disposition: Guilty Dispo Date: 6/20/2019

Sentence: 6/20/2019 Incarcerated from 36 months to 120 months Nevada State Prison

Notes: consecutive to Washoe CR18-0761 and Churchill 18-10DC-0049

Bail Amount: \$65,000

### Case Docket

#### Docket Summary

3/6/2019 11:21:00 AM | Justice Court Proceedings | Filed

Notes: Justice Court Proceedings

3/6/2019 11:22:00 AM | Information | Filed

Notes: Information

3/6/2019 3:42:00 PM | Order | Filed

Notes: Order of Recusal

3/7/2019 11:08:00 AM | Order | Filed

Notes: Setting Memo

3/11/2019 3:23:00 PM | Motion | Filed

Notes: Motion to Produce Defendant

3/13/2019 2:11:00 PM | Order | Filed

Notes: Order to Produce Defendant

3/15/2019 10:29:00 AM | Filed Document | Filed

Notes: Notice of Entry of Order

4/18/2019 4:30:00 PM | Guilty Plea Memorandum | Filed

Notes: Guilty Plea Memorandum

4/19/2019 9:25:00 AM | Order | Filed

Notes: Setting Memo

4/26/2019 3:32:00 PM | Motion | Filed

Notes: Motion to Produce Defendant

4/26/2019 3:33:00 PM | Order | Filed

Notes: Order to Produce

5/1/2019 3:18:00 PM | Filed Document | Filed

Notes: Notice of Entry of Order

6/25/2019 2:54:00 PM | Judgment of Conviction | Filed

Notes: Judgment of Conviction

6/26/2019 2:47:00 PM | Filed Document | Filed

Notes: Return of Service

6/26/2019 3:22:00 PM | Filed Document | Filed

Notes: Declaration of Service

9/23/2019 12:41:00 PM | Filed Document | Filed

Notes: Motion for Withdrawal of Attorney of Record and Transfer of Records

9/23/2019 12:42:00 PM | Filed Document | Filed

Notes: Affidavit in Support of Motion for Withdrawal of Attorney of Record and Transfer of Records

10/14/2019 10:32:00 AM | Order | Filed

## Churchill Case Summary

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Notes: Order

1/29/2020 1:54:00 PM | Motion | Filed

Notes: Motion to Compel

2/21/2020 8:20:00 AM | Order | Filed

Notes: Order After Motion to Compel

5/15/2020 11:54:00 AM | Motion | Filed

Notes: Motion Requesting Extension of Time Based on Extraordinary Circumstances

5/18/2020 3:18:00 PM | Opposition to Motion | Filed

Notes: Opposition to Motion for Extension of Time

5/21/2020 8:10:00 AM | Filed Document | Filed

Notes: Notice of Compliance with Court Order and Request for Reimbursement of Costs

5/21/2020 1:02:00 PM | Order | Filed

Notes: Order Authorizing Reimbursement of Costs

### Post Writ Filings

3/16/2021 12:52:00 PM | Filed Document | Filed

Notes: Petition for Writ of Habeas Corpus (Post-Conviction) #19-10DC-0289A

3/16/2021 12:53:00 PM | Filed Document | Filed

Notes: Memorandum of Points and Authorities In Support of Petition for Writ of Habeas Corpus (Post Conviction) #19-10DC-0289A

4/6/2021 10:46:00 AM | Motion - Criminal | Filed

Notes: Motion for Leave to Proceed in Forma Pauperis (#19-10DC-0289A)

4/6/2021 10:46:00 AM | Motion - Criminal | Filed

Notes: Motion for Appointment of Counsel Pursuant to NRS 34.750 \*\*\*Scanned Thru Here\*\*\*

5/20/2021 11:20:00 AM | Ex-Parte Motion | Filed

Notes: Petitioners Ex Parte Request for Status Check

5/20/2021 11:38:00 AM | Order | Filed

Notes: Order Directing Response

6/28/2021 3:45:00 PM | Motion - Criminal | Filed

Notes: Motion to Dismiss Post Conviction Writ as Untimely

7/6/2021 4:06:00 PM | Opposition to Motion - Criminal | Filed

Notes: Answer and Opposition to The Post Conviction Writ of Habeas Corpus

7/16/2021 9:32:00 AM | Order | Filed

Notes: Order Dismissing Petition for Writ of Habeas Corpus

7/16/2021 9:52:00 AM | Notice of Entry of Order | Filed

Notes: Notice of Entry of Order (Order Dismissing....)

7/16/2021 1:07:00 PM | Opposition to Motion - Criminal | Filed

Notes: Petitioner's Opposition to Respondent's Motion to Dismiss

7/16/2021 1:42:00 PM | Filed Document | Filed

Notes: Documentation of Courtesy Service

7/21/2021 2:43:00 PM | Reply | Filed

Notes: Petitioner's Opposition to Respondent's Answer and Opposition

7/21/2021 2:44:00 PM | Filed Document | Filed

Notes: Documentation of Courtesy Service by Clerk's Office

7/29/2021 12:12:00 PM | Notice of Appeal | Filed

Notes: Notice of Appeal

7/30/2021 8:36:00 AM | Filed Document | Filed

Notes: Case Appeal Statement

Case No. 19-10DC-0289A

Dept. I

FILED

2021 JUL 16 AM 9:32

SUE SEVON  
COURT CLERK

BY Bennett 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.

**ORDER DISMISSING PETITION FOR**  
**WRIT OF HABEAS CORPUS**

\_\_\_\_\_ /

This Matter is before the Court on Petitioner WILLIAM JACOB MARTIN's (hereinafter "William") Petition for Writ of Habeas Corpus (Post-Conviction), filed on March 16, 2021. On June 28, 2021 the STATE OF NEVADA (hereinafter "State") filed a Motion to Dismiss Post Conviction Writ as Untimely. On July 6, 2021 the State filed an Answer and Opposition to the Post-Conviction Writ of Habeas Corpus. The Answer filed by the State was in response to the Court's May 20, 2021 Order directing a response from the State within 45 days.

Pursuant to NRS 34.726(1), a Petition for Writ of Habeas Corpus "must be filed within 1 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.

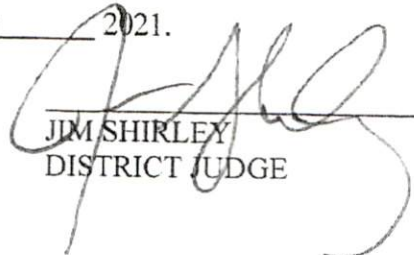
18 Accordingly, pursuant to NRS 34.726, William's Petition for Writ of Habeas Corpus  
19 (Post-Conviction) is DISMISSED as untimely.

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 14<sup>th</sup> day of July 2021.

5   
6 JIM SHIRLEY  
7 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 16<sup>TH</sup> day of July, 2021, I served the foregoing **ORDER DISMISSING**  
**PETITION FOR WRIT OF HABEAS CORPUS** on the parties, as noted below:

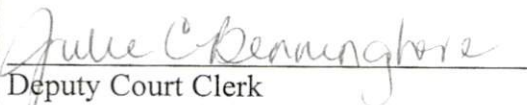
4 Lane R. Mills Esq.  
165 North Ada Street  
5 Fallon, NV 89406  
6 Email: lmills@churchillda.org; lorozco-padilla@churchillda.org

7 William Jacob Martin #95529  
N.N.C.C.  
8 P.O. Box 7000  
Carson City, NV 89702  
9

10 DATED this 16<sup>TH</sup> day of July, 2021.

11   
12 Sue Sevon, Court Administrator

13 Subscribed and Sworn to before me  
14 this 16<sup>TH</sup> day of July, 2021.

15   
Deputy Court Clerk

1 CASE NO. 19-10DC-0289A

2 DEPT. NO. I

3 The undersigned hereby affirms that this document  
4 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

6 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 vs.

11 WARDEN PERRY RUSSEL,

12 Respondent.

**NOTICE OF ENTRY OF ORDER**

13  
14  
15 Please take notice that on July 16, 2021, this Court entered its Order Dismissing  
16 Petition for Writ of Habeas Corpus. A copy is attached hereto.

17 DATED this 16th day of July, 2021.

Sue Sevon, Clerk of Court

19 By: Julie Benninghove  
20 Julie Benninghove  
21 Deputy Court Clerk

22 (SEAL)



1 CERTIFICATE OF MAILING

2 The undersigned, an employee of the Tenth Judicial District Court, hereby certifies  
3 that I served the foregoing **NOTICE OF ENTRY OF ORDER** on the parties by depositing  
4 a copy thereof in the U.S. Mail at Fallon, Nevada, postage prepaid, or as noted below:

5 Lane R. Mills Esq.  
6 Email - [lmills@churchillda.org](mailto:lmills@churchillda.org)

7 Charles B. Woodman Esq.  
8 Attorney at Law  
9 548 W. Plumb Lane, Suite B  
10 Reno, NV 89501

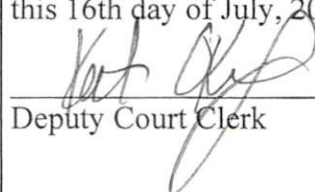
11 William Jacob Martin #95529  
12 N.N.C.C.  
13 P.O. Box 7000  
14 Carson City, NV 89702

15 Office of the Attorney General  
16 100 North Carson Street  
17 Carson City, NV 89701  
18 ~ Courtesy Copy ~

19 DATED this 16th day of July, 2021.

20   
Deputy Court Clerk

21 Subscribed and Sworn to before me  
22 this 16th day of July, 2021.

23   
24 Deputy Court Clerk

Case No. 19-10DC-0289A

Dept. I

FILED

2021 JUL 16 AM 9:32

SUE SEVON  
COURT CLERK

BY Bennings 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.

**ORDER DISMISSING PETITION FOR**  
**WRIT OF HABEAS CORPUS**

This Matter is before the Court on Petitioner WILLIAM JACOB MARTIN's (hereinafter "William") Petition for Writ of Habeas Corpus (Post-Conviction), filed on March 16, 2021. On June 28, 2021 the STATE OF NEVADA (hereinafter "State") filed a Motion to Dismiss Post Conviction Writ as Untimely. On July 6, 2021 the State filed an Answer and Opposition to the Post-Conviction Writ of Habeas Corpus. The Answer filed by the State was in response to the Court's May 20, 2021 Order directing a response from the State within 45 days.

Pursuant to NRS 34.726(1), a Petition for Writ of Habeas Corpus "must be filed within 1 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).

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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 14<sup>th</sup> day of July 2021.

5   
6 JIM SHIRLEY  
7 DISTRICT JUDGE  
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**CERTIFICATE OF SERVICE**

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that on the 16<sup>th</sup> day of July, 2021, I served the foregoing **ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS** on the parties, as noted below:

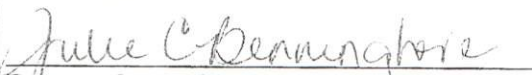
Lane R. Mills Esq.  
165 North Ada Street  
Fallon, NV 89406  
Email: [lmills@churchillda.org](mailto:lmills@churchillda.org); [lorozco-padilla@churchillda.org](mailto:lorozco-padilla@churchillda.org)

William Jacob Martin #95529  
N.N.C.C.  
P.O. Box 7000  
Carson City, NV 89702

DATED this 16<sup>th</sup> day of July, 2021.

  
Sue Sevon, Court Administrator

Subscribed and Sworn to before me  
this 16<sup>th</sup> day of July, 2021.

  
Deputy Court Clerk

1 CASE NO. 19-10DC-0289 A  
2 DEPT. I  
3  
4

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

8 WILLIAM JACOB MARTIN,  
9 Appellant,

10 vs.

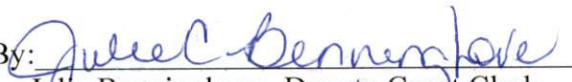
11 WARDEN PERRY RUSSEL et.al,  
12 Respondent.  
13  
14 \_\_\_\_\_)

15 C E R T I F I C A T E

16 I, SUE SEVON, Clerk of the Court for the Tenth Judicial District Court of the State of  
17 Nevada, in and for the County of Churchill, do hereby certify that the following documents are  
18 copies of the original documents on file with the District Court and which are contained in the  
19 Appeal.

20 DATED: This 30<sup>th</sup> day of July, 2021.

21  
22 SUE SEVON, Clerk of the Court

23  
24 By:   
25 Julie Benninghove, Deputy Court Clerk  
26  
27  
28

**TRANSMISSION OF DOCUMENTS UPON FILING OF A NOTICE OF APPEAL**

**DOCUMENT TITLE**

**ENCLOSED**

NOTICE OF APPEAL

YES

NO

CASE APPEAL STATEMENT

YES

NO

DISTRICT COURT DOCKET ENTRIES

YES

NO

JUDGMENT (S) or ORDER (S) APPEALED FROM

YES

NO

NOTICE OF ENTRY OF JUDGMENT (S) or  
ORDER(S) APPEALED FROM

YES

NO

CERTIFICATION OF ORDER DIRECTING  
ENTRY OF JUDGMENT PURSUANT TO  
NRCP 54(b)

YES

NO

DISTRICT COURT MINUTES

YES

NO

EXHIBIT LIST

YES

NO

CERTIFICATE OF ORIGINAL DOCUMENTS

YES

NO

**FEES**

NOTICE OF APPEAL FILING FEE - \$24.00

YES

NO

APPEAL BOND - \$500.00

YES

NO

SUPREME COURT FILING FEE - \$250.00

YES

NO

\* CRIMINAL