

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES ANTHONY DAVIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43345

FILED

DEC 16 2004

ORDER DISMISSING APPEAL AND
REMOVING COUNSEL OF RECORD

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK


Appellant has moved for a voluntary dismissal of this appeal. The voluntary dismissal of a criminal appeal involves a waiver of important constitutional rights. In the motion, appellant's counsel advises that he has informed appellant of the legal effects and consequences of voluntarily withdrawing this appeal, including that appellant cannot hereafter seek to reinstate this appeal and that any issues that were or could have been brought in this appeal are forever waived. Appellant's counsel further represents that appellant, having been so informed, consents to a voluntary dismissal. Cause appearing, appellant's motion for a voluntary dismissal is granted and this appeal is dismissed. NRAP 42(b).¹

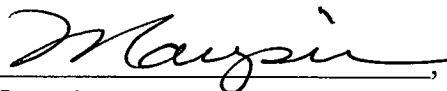
¹Because no remittitur will issue in this matter, see NRAP 42(b), the one-year period for filing a post-conviction habeas corpus petition under NRS 34.726(1) shall commence to run from the date of this order.

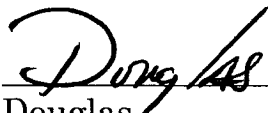
We also note that appellant filed a request for transcripts on August 16, 2004. Those transcripts were due on September 15, 2004, but the court reporter has not yet filed a certificate acknowledging delivery of the completed transcripts and a certified copy of the transcripts. NRAP 9(b). With the dismissal of this appeal, the court reporter is no longer obligated to comply with NRAP 9.

Counsel for appellant, attorney Marvin L. Longabaugh, also has filed a "Withdrawal of Attorney" pursuant to SCR 46. Because no remittitur will issue in this matter, see NRAP 42(b), this order dismissing appeal constitutes this court's final determination of this appeal. Consistent with the notice of withdrawal submitted by Mr. Longabaugh, the clerk shall remove Mr. Longabaugh as counsel of record for appellant. See SCR 46 ("After judgment or final determination, an attorney may withdraw as attorney of record at any time upon the attorney's filing a withdrawal, with or without the client's consent.").

It is so ORDERED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Nancy M. Saitta, District Judge
Longabaugh Law Offices
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
James Anthony Davis
Court Reporter, Eighth Judicial District Court, Dept. 18
Clark County Clerk