

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARSHALL WALTER
SYLWESTRAZAK A/K/A MARSHALL
SYLVER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43457

FILED

AUG 26 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. Rude*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court denying appellant's motion to dismiss an indictment. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.


Our preliminary review of this appeal revealed a jurisdictional defect. The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists.¹ No statute or court rule provides for an appeal from an order denying a motion to dismiss an indictment. Accordingly, on June 25, 2004, this court ordered appellant's counsel to show cause why this appeal should not be dismissed.

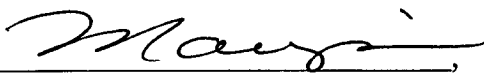
On July 19, 2004, counsel filed a response to this court's order. In the response, counsel does not identify any statute or court rule that provides for an appeal from an order denying a motion to dismiss an

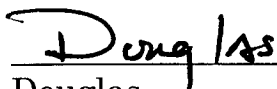
¹Castillo v. State, 106 Nev. 349, 792 P.2d 1133 (1990).

indictment, but instead addresses the merits of the appeal. We therefore conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.²

 _____, J.
Rose

 _____, J.
Maupin

 _____, J.
Douglas

cc: Hon. Valorie Vega, District Judge
Dominic P. Gentile, Ltd.
Attorney General Brian Sandoval/Las Vegas
Clark County District Attorney David J. Roger
Clark County Clerk

²In order to challenge the district court's order denying the motion to dismiss the indictment, appellant may file a writ petition. See Solis-Ramirez v. District Court, 112 Nev. 344, 913 P.2d 1293 (1996).