

IN THE SUPREME COURT OF THE STATE OF NEVADA

HERMAN MORALES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43891

FILED

SEP 22 2004

ORDER DISMISSING APPEAL

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

This is a proper person notice of appeal from a jury verdict finding appellant guilty of first degree murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge.

Our review of this appeal reveals that the notice of appeal was prematurely filed. Specifically, on July 16, 2004, the jury found appellant guilty of one count of first degree murder with the use of a deadly weapon. On August 31, 2004, prior to the district court's imposition of appellant's sentence, appellant filed the instant proper person notice of appeal from the verdict. The criminal court minutes indicate that appellant's trial counsel withdrew from representing appellant at sentencing, Peter S. Christiansen was appointed to represent appellant, and Mr. Christiansen was confirmed as counsel on August 25, 2004. The criminal court minutes indicate that the matter is presently pending for a status check on sentencing.

Although NRS 177.015(3) provides that a defendant may appeal from a "final judgment or verdict in a criminal case," this court's rules of appellate procedure do not contemplate the filing of an appeal

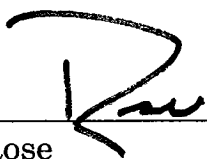
from a verdict prior to sentencing and entry of a written judgment of conviction. For example, NRAP 4(b)(1) provides:


In a criminal case, the notice of appeal by a defendant shall be filed in the district court within thirty (30) days after the entry of the judgment or order appealed from. A notice of appeal filed after the announcement of a decision, sentence or order but before entry of the judgment or order shall be treated as filed after such entry and on the day thereof. . . . A judgment or order is entered within the meaning of this rule when it is signed by the judge and filed with the clerk.


Moreover, NRS 176.105(1) requires that the judgment of conviction must set forth the plea, the verdict, the adjudication and sentence, and the amount of credit granted for time spent in confinement before conviction, if any.

Accordingly, we hereby

ORDER this appeal DISMISSED without prejudice to appellant's right to file a timely appeal from a final judgment of conviction and sentence.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Nancy M. Saitta, District Judge
Herman Morales
Peter S. Christiansen
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk