

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTONIO M. BREAKMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43974

FILED

OCT 19 2004

ORDER DISMISSING APPEAL

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

This is an appeal from a guilty verdict of one count of attempted murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Valorie Vega, Judge. Our preliminary review of the documents before us reveals that the appeal is premature.

Specifically, on September 3, 2004, a jury found appellant guilty of one count of attempted murder with the use of a deadly weapon. Based on our review of the documents submitted in this appeal, it appears that the district court has not yet sentenced appellant, nor has the district court entered a final, written judgment of conviction.

Although NRS 177.015(3) provides that a defendant may appeal from a "final judgment or verdict in a criminal case" (emphasis added), 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.

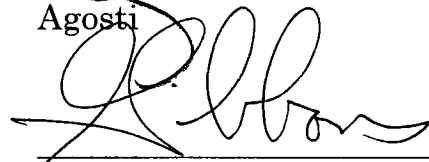
(Emphasis added.) Moreover, NRS 176.105(1) requires that the judgment of conviction set forth the plea, the verdict, the adjudication and sentence, and the amount of credit granted for time spent in confinement before conviction, if any. Therefore, appellant must be sentenced and a written judgment of conviction must be entered by the district court before this court will entertain an appeal.

Accordingly, we

ORDER this appeal DISMISSED.¹

 _____, J.
Becker

 _____, J.
Agosti

 _____, J.
Gibbons

cc: Hon. Valorie Vega, District Judge
Mueller & Associates
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

¹This dismissal is without prejudice to appellant's right to file and perfect a timely appeal following the district court's pronouncement of the sentence.