

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE J. SMITH, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

WILLIE J. SMITH, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43751

No. 44250

FILED

DEC 03 2004

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

ORDER ADMINISTRATIVELY CLOSING APPEAL

Docket No. 43751 is an appeal from a judgment of conviction, upon a jury verdict in district court case no. C173682, of trafficking in a controlled substance. The notice of appeal recites, in part, that appellant also appeals the district court's denial of his presentence proper person motion for a new trial. The motion for a new trial was orally denied by the district court from the bench on August 3, 2004, prior to the district court's imposition of sentence. The district court entered a written judgment of conviction on August 16, 2004.


Docket No. 44250 is a proper person appeal from a written order entered by the district court on October 15, 2004, memorializing the district court's prior, oral denial of appellant's proper person, presentence motion for a new trial in the same district court case.¹

¹It appears that the district court entered the written order of October 15, 2004, in response to an order issued by this court on September 20, 2004, in a separate appeal presently pending in this court in Docket No. 43809. Docket No. 43809 is a separate appeal from an order of the district court denying appellant's post-conviction petition for a writ

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Any and all issues respecting the district court's denial of the motion for a new trial in district court case no. C173682 can be asserted in the context of the direct appeal from the judgment of conviction presently pending in Docket No. 43751. Thus, the appeal in Docket No. 44250 was unnecessarily docketed in this court as a separate proceeding. Accordingly, the clerk of this court shall administratively close the appeal in Docket No. 44250 and transfer all documents filed or received in that matter to Docket No. 43751. ²

It is so ORDERED.

 , C.J.

cc: Hon. Michelle Leavitt, District Judge
Willie J. Smith Jr.
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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of habeas corpus in district court case no. C182521. A written order denying appellant's post-conviction habeas petition in that matter was entered by the district court on September 16, 2004.

²On October 22, 2004, this court remanded the appeal in Docket No. 43751 to the district court for the limited purpose of appointing counsel to represent appellant in this court. To date, this court has not received notice that the district court has appointed appellate counsel for appellant.