

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE T. SMITH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44333

FILED

JAN 13 2005

ORDER DISMISSING APPEAL

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

This is a proper person appeal from an order of the district court denying a pretrial petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.


Our review of this appeal reveals 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

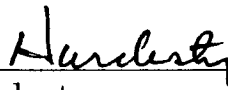
¹Castillo v. State, 106 Nev. 349, 792 P.2d 1133 (1990).

independent appeal from a decision of the district court denying a pretrial petition for a writ of habeas corpus.² Accordingly, we

ORDER this appeal DISMISSED.


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

²See NRS 34.575(1) ("An applicant who, after conviction or while no criminal action is pending against him, has petitioned the district court for a writ of habeas corpus and whose application for the writ is denied, may appeal to the Supreme Court from the order and judgment of the district court.") (emphasis added); NRS 177.015(3) ("The defendant only may appeal from a final judgment or verdict in a criminal case."); compare NRS 177.045 ("Upon the appeal, any decision of the court in an intermediate order or proceeding, forming a part of the record, may be reviewed."); see also Gary v. Sheriff, 96 Nev. 78, 605 P.2d 212 (1980) (holding that no appeal lies from an order denying a pretrial petition for a writ of habeas corpus).

cc: Hon. John S. McGroarty, District Judge
Willie T. Smith
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk