

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN K. O'KEEFE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44372

FILED

JAN 07 2005

ORDER DISMISSING APPEAL

JANE T. M. BLOOM
CLERK OF SUPREME COURT

BY *J. Richards*
DEPUTY CLERK

This is an appeal from a guilty verdict, pursuant to a jury trial. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge. Our preliminary review of the documents before us reveals that the appeal is premature.

Specifically, on October 28, 2004, a jury found appellant guilty of one count of battery and one count of burglary. Based on our review of the documents submitted in this appeal, it appears that at the time of the filing of the notice of appeal, the district court had 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:

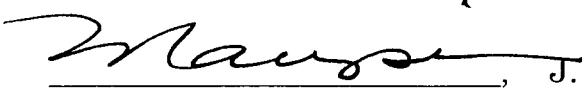
In a criminal case, the notice of appeal by a defendant shall be filed in the district court within thirty (30) days after the entry of the judgment or order appealed from. A notice of appeal filed after the announcement of a decision, sentence or order but before entry of the judgment or order shall be treated as filed after such entry and on the day

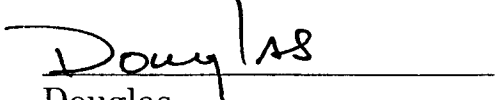
thereof. . . . A judgment or order is entered within the meaning of this rule when it is signed by the judge and filed with the clerk.

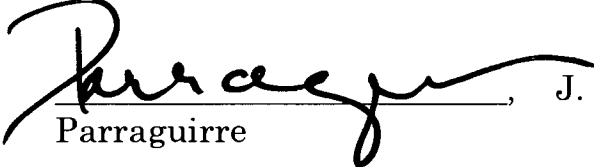
(Emphasis added.) Moreover, NRS 176.105(1) requires that the judgment of conviction set forth the plea, the verdict, the adjudication and sentence, and the amount of credit granted for time spent in confinement before conviction, if any. Therefore, appellant must be sentenced and a written judgment of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

Accordingly, we

ORDER this appeal DISMISSED.¹


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. Sally L. Loehrer, District Judge
James L. Buchanan II
Brian K. O'Keefe
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.