

IN THE SUPREME COURT OF THE STATE OF NEVADA


PERCY LAVAE BACON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44903

FILED

APR 22 2005

ORDER DISMISSING APPEAL

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

This is a proper person appeal from a purported order of the district court denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.


It appeared from the documents before this court that the district court may have orally denied the petition in court on March 1, 2005. Thus, on April 1, 2005, this court entered an order directing the district court to enter a written order or inform this court that it was reconsidering its decision. This court further ordered the clerk of the district court to transmit the record on appeal.

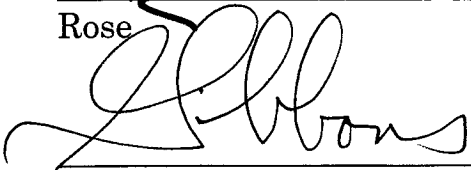
On April 8, 2005, this court received a letter from the clerk of the district court. The clerk of the district court has informed this court that the post-conviction petition for a writ of habeas corpus was not denied on March 1, 2005. Rather, the district court denied a motion for O.R. release pending outcome of the habeas corpus petition. The petition is scheduled to be heard on April 28, 2005.

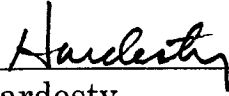
We conclude that this appeal is fatally defective. To the extent that appellant attempted to appeal from the denial of his habeas corpus petition, this appeal is premature as no decision has been reached

on his petition.¹ To the extent that appellant sought to appeal from the denial of his motion for O.R. release, this court likewise lacks jurisdiction because no statute or court rule permits for an appeal from the denial of the aforementioned motion.² Thus, we conclude that we lack jurisdiction to consider this appeal, and we rescind the April 1, 2005 order issued by this court. Accordingly, we

ORDER this appeal DISMISSED.³


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Jackie Glass, District Judge
Percy Lavae Bacon
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

¹Appellant may appeal from a final, written order of the district court denying his petition. See NRS 34.575; NRAP 4(b).

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

³We have received appellant's opening brief, and we conclude that no relief is warranted for the reasons discussed above.