

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARSHALL BURGESS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45361

FILED

JUL 28 2005

ORDER DISMISSING APPEAL

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

This is an appeal from an order of the district court denying a motion for recusal. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

This court's review of this appeal revealed a jurisdictional defect. Specifically, 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 appeal from an order denying a motion for recusal. Accordingly, on June 30, 2005, this court ordered appellant's counsel to show cause why this appeal should not be dismissed for lack of jurisdiction.

On July 6, 2005, counsel filed a notice informing this court that she would not be filing a fast track statement in this appeal. Counsel concedes that the order appealed from is an interlocutory order, and not a

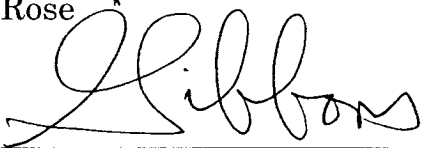
¹Castillo v. State, 106 Nev. 349, 792 P.2d 1133 (1990).

final, appealable order. We conclude that we lack jurisdiction to entertain this appeal, and we


ORDER this appeal DISMISSED.

 _____, J.

Rose

 _____, J.

Gibbons

 _____, J.

Hardesty

cc: Hon. Jerome Polaha, District Judge
Nathalie Huynh
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk