

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN KINSTON COZY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45674

**FILED**

OCT 05 2005

ORDER DISMISSING APPEAL

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

This is a proper person appeal from an order of the district court denying a "motion for dismissal of counsel, time to retain counsel, disqualification of judge, or in the alternative writ of habeas corpus." Eighth Judicial District Court, Clark County; Jackie Glass, 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.<sup>1</sup> No statute or court rule provides for an appeal from an order of the district court denying a motion for dismissal of counsel, time to retain counsel, and disqualification of judge.

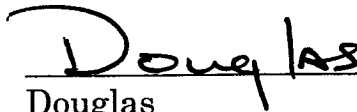
The record before this court establishes that the district court did not treat this document as a post-conviction petition for a writ of habeas corpus because appellant was represented by counsel and because the petition was not in the form required by NRS 34.735. We conclude that the district court did not err in its decision to deny the petition, and we note that the decision was without prejudice to appellant's right to file a post-conviction petition for a writ of habeas corpus in compliance with

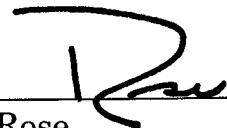
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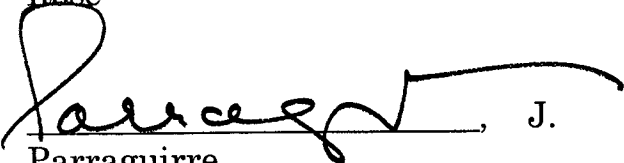
<sup>1</sup>Castillo v. State, 106 Nev. 349, 792 P.2d 1133 (1990).

NRS chapter 34 when his direct appeal has been resolved.<sup>2</sup> Accordingly,  
we

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Parraguirre

cc: Honorable Jackie Glass, District Judge  
John Kinston Cozy  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>2</sup>Appellant's direct appeal is pending in this court in Docket No. 44226.