

IN THE SUPREME COURT OF THE STATE OF NEVADA

CALVIN D. DIXON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46152

FILED

SEP 26 2006

ORDER DISMISSING APPEAL

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

This is a proper person appeal from a decision of the district court purportedly denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge.

On October 21, 2005, when the appeal was initially docketed in this court, it appeared from the district court's minutes that the district court had orally denied the petition on August 8, 2005. At that time, however, the district court had not entered a written order denying the petition.

Therefore, on November 22, 2005, this court entered an order directing the district court to either enter a written order or inform this court that it was reconsidering its decision on or before December 22, 2005. Thereafter, the district court's minute entries were amended to reflect that the district court had actually granted, rather than denied, the petition on August 8, 2005. Although the amended minute entries indicated that a written order was to be filed by the court, no written order was ever filed below either granting or denying the petition.

Accordingly, on February 13, 2006, this court again directed the district court to either enter a written order memorializing its

decision or inform this court whether it was reconsidering its decision. No written order was filed and no response from the district court was forthcoming. Thus, on April 20, 2006, this court again directed the district court to either enter a written order or inform this court whether it was reconsidering its decision. To date, no written order has been filed. However, on July 5, 2006, a minute order was entered in the proceedings below indicating that the district court had been unable to comply with this court's prior orders because the district court had only recently received additional information from defense counsel.

This appeal has remained pending in this court since October 21, 2005, and because a written order has not been entered in the proceedings below, this court has been unable to determine whether it has jurisdiction to consider the appeal. Specifically, it is unclear from the documents before this court whether appellant is an aggrieved party or whether the district court has granted or denied the petition in its entirety.

Appellant was represented by attorney Joseph S. Sciscento in the post-conviction proceedings. In view of the uncertainties respecting the status of this matter below and this court's jurisdiction, this court directed attorney Sciscento and the State to inform this court whether the district court had granted or denied the petition in its entirety and whether appellant is an aggrieved party. Counsel for appellant in the proceedings below and the State have responded and indicated that this

appeal is moot as appellant was provided an opportunity to negotiate a guilty plea.¹ Accordingly, we

ORDER this appeal DISMISSED.

Becker, J.
Becker

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Nancy M. Saitta, District Judge
Calvin D. Dixon
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Joseph S. Sciscento
Clark County Clerk

¹It appears that appellant's original conviction was based upon a jury trial. The August 30, 2006 minute entries attached to the State's response indicate that appellant entered a guilty plea to one count of conspiracy to commit murder and one count of second degree murder. The district court sentenced appellant to serve terms totaling twelve to thirty-five years in the Nevada State Prison. Because counsel for appellant and the State have informed this court the appeal is moot, this court may dismiss the appeal. However, we note that to date, the district court has not entered a written order finally resolving the post-conviction petition for a writ of habeas corpus.