

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT EDWARD ENTRIKIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48202

FILED

JUL 03 2007

ORDER OF REMAND

ANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of violation of an extended protective order and one count of violation of a temporary protective order. Eighth Judicial District Court, Clark County; Michael A. Cherry, Judge.

The notice of appeal was filed in the district court on October 4, 2006, and the appeal was docketed in this court on October 11, 2006. Because of appellant's counsel Ben Bingham's failure to file an adequate fast track statement in this appeal, this court ordered Bingham to appear personally before this court and show cause why he should not be sanctioned. On June 7, 2007, Bingham appeared and explained that he believed that this appeal was now moot. On June 15, 2007, Bingham filed a notice wherein he explained that after the docketing of this appeal, appellant appeared in district court and an amended judgment of conviction was entered reducing both felony counts to misdemeanors. The district court apparently entered an amended judgment of conviction on April 9, 2007, and entered a second amended judgment of conviction on April 20, 2007.

Generally, "[a] timely notice of appeal divests the district court of jurisdiction to act and vests jurisdiction in this court."¹ If the district court is inclined to modify a decision from which an appeal has been taken, after jurisdiction has vested in this court, the preferable course of action is for the district court to certify to this court its inclination to modify its decision and to request a remand.²

Nevertheless, it is apparent from our review of the documents before this court that the district court has reconsidered and is inclined to amend the judgment of conviction. We have concluded that requiring the district court to certify its inclination to this court under these circumstances would only serve to further delay a final resolution of this matter. Accordingly, we have elected to dispense with the requirement that the district court certify to this court its inclination to amend the judgment of conviction, and we remand this matter to the district court for further proceedings. We note that because the district court was technically without jurisdiction to enter the amended judgment of conviction and the second amended judgment of conviction, both judgments are void. Upon remand, the district court will have jurisdiction to enter a valid amended judgment of conviction.

¹Robertson v. State, 109 Nev. 1086, 1089, 863 P.2d 1040, 1042 (1993), overruled on other grounds by Krauss v. State, 116 Nev. 307, 998 P.2d 163 (2000); see also Miller v. Hayes, 95 Nev. 927, 604 P.2d 117 (1979).

²See generally Huneycutt v. Huneycutt, 94 Nev. 79, 575 P.2d 585 (1978); Layton v. State, 89 Nev. 252, 510 P.2d 864 (1973).

Bingham informs this court that the issues appellant wished to raise on appeal have been rendered moot by the district court's decision to enter an amended judgment of conviction, Nonetheless, we note that appellant will have 30 days from the filing of the amended judgment of conviction within which to file a notice of appeal, should he wish to challenge the amended judgment of conviction.³


Finally, although we conclude that sanctions are not warranted in this case, we caution Bingham that disregard of this court's orders and rules of appellate procedure may result in the imposition of sanctions.

Based on the foregoing, we remand this matter to the district court for further proceedings.

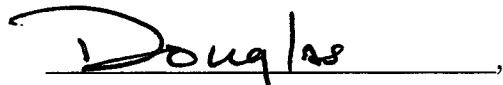
It is so ORDERED.⁴

 C.J.

Maupin

 J.

Gibbons

 J.

Douglas

³NRS 177.015(3); NRAP 4(b)(1).

⁴We have reviewed the document that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon that submission is warranted.

cc: Eighth Judicial District Court Dept. 17, District Judge
Ben J. Bingham
Michael P. Printy
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk