

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
TYLER AARON GIBBENS,
Respondent.

No. 48718

FILED

APR 09 2007

ORDER DISMISSING APPEAL

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

This is an appeal from an order of the district court granting respondent's motion in limine. Fifth Judicial District Court, Nye County; John P. Davis, Judge. This court's preliminary review of this appeal revealed a jurisdictional defect.

The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists.¹ In this case, the district court ordered that results from respondent's computer voice-stress analysis would not be allowed into evidence at trial because the test was unreliable. No statute or court rule provides for an appeal from such an order.²

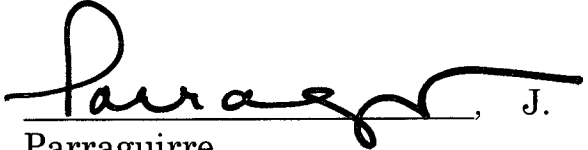
Accordingly, on February 28, 2007, this court directed the State to show cause why this appeal should not be dismissed for lack of jurisdiction. In its response, the State concedes that there is no statute or

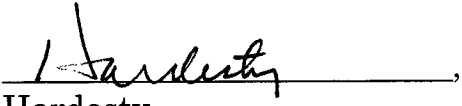
¹Castillo v. State, 106 Nev. 349, 792 P.2d 1133 (1990).

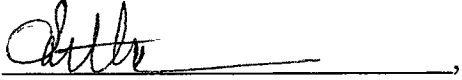
²See NRS 177.015(2); State v. Shade, 110 Nev. 57, 63, 867 P.2d 393, 396 (1994) ("There is no statute or rule which provides for an appeal from an order of the district court granting a motion in limine to exclude evidence.").

rule providing for an appeal from a district court order granting a motion in limine.³ We therefore conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.⁴


Parraguirre, J.


Hardesty, J.


Saitta, J.

cc: Hon. John P. Davis, District Judge
Attorney General Catherine Cortez Masto/Carson City
Nye County District Attorney/Pahrump
Nye County District Attorney/Tonopah
Earnest, Gibson & Kuehn
Nye County Public Defender
Nye County Clerk

³The State has filed an extraordinary writ challenging the trial court's ruling excluding the computer voice-stress analysis evidence. The writ, filed on March 8, 2007, is currently pending resolution in this court and is docketed as State v. District Court, Docket No. 49047.

⁴On February 28, 2007, the State filed a motion requesting permission to file a reply brief in this appeal. Given our conclusion that we lack jurisdiction to entertain this appeal, we deny the motion as moot. The clerk of this court shall return, unfiled, the reply to the respondent's response provisionally submitted on February 28, 2007.