

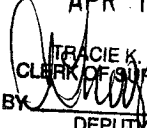
IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
ANTONIO WOODS A/K/A ANTONIO
DEMAR WOODS,
Respondent.

No. 49394

FILED

APR 17 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting respondent Antonio Woods' presentence motion to withdraw a guilty plea. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

The threshold issue in this appeal is whether the district court's interlocutory order granting a presentence motion to withdraw a guilty plea is an appealable determination.¹ At this court's direction, the parties addressed this issue in their briefs.² The State argues that the order is appealable as the functional equivalent of an order granting a motion for a new trial, which is appealable under NRS 177.015(1)(b).³


¹See Castillo v. State, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (“[T]he right to appeal is statutory; where no statutory authority to appeal is granted, no right to appeal exists.”).

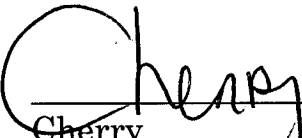
²State v. Woods, Docket No. 49394 (Order Directing Full Briefing, September 10, 2007).


³Cf. Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984) (concluding that an order denying a post-conviction motion to withdraw a
continued on next page . . .

Woods disagrees. After the parties' briefs were filed, this court considered and resolved this issue in State v. Lewis,⁴ concluding that an interlocutory order granting a presentence motion to withdraw a guilty plea is not the functional equivalent of an order granting a motion for a new trial and is not an appealable determination. Based on Lewis, we conclude that this court lacks jurisdiction over this appeal. Accordingly, we

ORDER this appeal DISMISSED.


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. James M. Bixler, District Judge
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Gregory L. Denué
Mueller Hinds & Associates
Eighth District Court Clerk

... continued

guilty plea is the functional equivalent of an order denying a motion for a new trial and therefore is an appealable determination).

⁴123 Nev. ___, ___ P.3d ___ (Adv. Op. No. 13, March 13, 2008).