

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERNEST JORD GUARDADO,  
Appellant,  
vs.  
WARDEN, NEVADA STATE PRISON,  
CRAIG FARWELL,  
Respondent.

No. 49811

**FILED**

MAR 20 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying appellant's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

Our preliminary review of this appeal revealed a potential jurisdictional defect. Specifically, it appeared that the district court's decision entered on June 14, 2007, was not a final appealable determination.<sup>1</sup> The district court order of June 14, 2007, resolved the claims raised in the supplemental petition but did not resolve all of the claims raised in the original proper person post-conviction petition filed in the district court on July 8, 2004. With the exception of the appeal

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<sup>1</sup>See NRS 177.015(3) ("The defendant only may appeal from a final judgment . . . in a criminal case.").

deprivation claim, it appears that the claims raised in appellant's original post-conviction petition are unresolved and pending in the district court. Therefore, the order of June 14, 2007, does not appear to be a final order. Accordingly, on February 19, 2008, this court ordered appellant's counsel Scott Edwards to show cause why this appeal should not be dismissed for a lack of jurisdiction.


On March 5, 2008, Edwards filed a response to this court's order to show cause. In the response, Edwards concedes that the claims raised in the original petition are unresolved and pending in the district court. This court prefers not to proceed in a piecemeal fashion, and we conclude that the district court order of June 14, 2007, is not a final, appealable determination.<sup>2</sup>

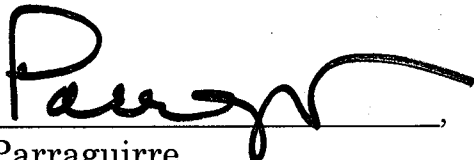
Having reviewed the record and concluded that we lack jurisdiction over this appeal, we

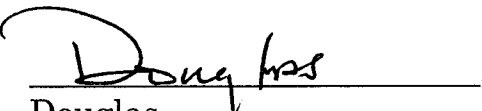
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<sup>2</sup>See Franklin v. State, 85 Nev. 401, 455 P.2d 919 (1969) (holding that this court is reluctant to engage in piecemeal review of criminal proceedings, except in narrowly defined circumstances, because of the disruptive effect on the orderly processing of the case).

ORDER this appeal DISMISSED without prejudice to appellant's right to timely appeal from any future final, appealable determination of the district court.<sup>3</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

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

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

cc: Hon. Robert H. Perry, District Judge  
Scott W. Edwards  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk  
Ernest Jord Guardado

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<sup>3</sup>Because appellant is represented by counsel in this matter, we decline to grant appellant permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, this court shall take no action on and shall not consider the proper person document that appellant has submitted to this court in this matter.