

IN THE SUPREME COURT OF THE STATE OF NEVADA

DELL MARVIN ROBERTS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50479

FILED

JAN 18 2008

ORDER DISMISSING APPEAL

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

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

On October 5, 2007, the district court had a hearing calendared on the issues raised in the post-conviction petition filed in case number CR022249. On November 1, 2007, appellant filed in the district court a proper person notice of appeal. The notice of appeal states that appellant intends to appeal from a district court order entered on the "29th day of May, 2007. Dismiss[ing] the petition for habeas corpus." The order of the district court filed on May 30, 2007, however, did not resolve all of the claims presented in appellant's petition and, in fact, granted appellant an evidentiary hearing. And we note that this court previously dismissed appellant's appeal from the district court order of May 30, 2007,

after concluding that the order was interlocutory and was not a final appealable determination.¹ Although this court dismissed the appeal without prejudice to appellant's right to file a timely appeal from a final district court order resolving the claims presented in the post-conviction petition, our preliminary review of the limited record before this court indicated that appellant's claims remain unresolved.

Accordingly, on November 20, 2007, this court ordered counsel for appellant to show cause why this appeal should not be dismissed for a lack of jurisdiction. On December 13, 2007, counsel for appellant filed a response to the order to show cause. In the response, counsel for appellant advises that the district court has conducted a hearing, but concedes that the district court has not yet resolved all of the claims raised in appellant's post-conviction petition. No rule or statute authorizes an appeal from an intermediate order,² and this court prefers not to proceed in a piecemeal fashion.³ We therefore conclude that we lack jurisdiction over this appeal, and

¹Roberts v. State, Docket Nos. 49685 & 49742 (Order Dismissing Appeals, August 16, 2007).

²See Kokkos v. Tsalikis, 91 Nev. 24, 530 P.2d 756 (1975).

³See Franklin v. District Court, 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 file a timely appeal from any forthcoming order of the district court resolving the remaining claims presented in his petition below.

L. Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

cc: Hon. Jerome Polaha, District Judge
O'Mara Law Firm, P.C.
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk
Dell Marvin Roberts