

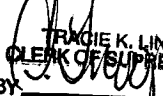
IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMMIE JACKSON A/K/A JAMIE  
RAMONE JACKSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 51300

**FILED**

APR 18 2008

TRACHE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

Our preliminary review of the documents before this court reveals a jurisdictional defect. The documents before this court indicate that on January 8, 2008, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court approximately one year after entry of the judgment of conviction and approximately five months after the resolution of his direct appeal.<sup>1</sup> On that same date, appellant filed a motion for leave to proceed in forma pauperis. The March 5, 2008 district court minutes indicated that appellant's former trial counsel appeared at a hearing on the petition and advised the district

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<sup>1</sup>Jackson v. State, Docket No. 49032 (Order of Affirmance, September 11, 2007).

court that the petition was filed in proper person. The March 5, 2008 district court minutes further indicated that the State informed the district court that appellant did not have the right to file the petition in proper person. Consequently, the district court took the petition off calendar.

The fact that appellant was represented by trial counsel in the earlier proceedings does not prevent appellant from filing a post-conviction petition for a writ of habeas corpus in proper person as the petition is a collateral proceeding.<sup>2</sup> Further, the district court may not resolve a post-conviction petition for a writ of habeas corpus by simply taking the petition off calendar. A decision taking the petition off calendar is not a final decision as the district court retains the jurisdiction to place the petition back on calendar for review. There is no authority in NRS chapter 34 allowing the district court to take a petition off calendar in lieu of resolving the petition on the merits or other procedural grounds. NRS 34.740 requires the district court to provide an expeditious examination of a post-conviction petition for a writ of habeas corpus. NRS 34.830 provides that any final order that disposes of a post-conviction petition for a writ of habeas corpus must contain specific findings of fact and conclusions of law and that service of notice of entry of the order be performed by the clerk of the district court. NRAP 4(b)(2) requires the district court to enter any order finally resolving a post-conviction petition


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<sup>2</sup>Further, we note that trial counsel's failure to formally withdraw from representation after the conclusion of the trial and appellate proceedings should not preclude a petitioner from filing a post-conviction petition for a writ of habeas corpus in proper person.

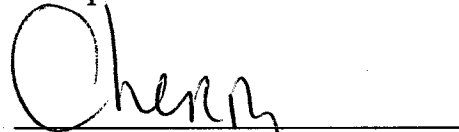
for a writ of habeas corpus within 20 days of the district court's oral pronouncement of a final decision. Petitioner may not file an appeal to this court unless the district court has entered a final decision on the petition.<sup>3</sup>

Because no final order has been entered, we lack jurisdiction to consider this appeal. We are confident that the district court will place the petition back on calendar and resolve the matter as expeditiously as its calendar permits. Accordingly, we

ORDER this appeal DISMISSED.<sup>4</sup>

 J.

Maupin

 J.

Cherry

 J.

Saitta

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<sup>3</sup>See NRS 34.575; NRAP 4(b)(1).

<sup>4</sup>We have considered all proper person documents submitted in this matter, and we conclude that no relief is warranted for the reason set forth above.

cc: Hon. Elizabeth Goff Gonzalez, District Judge  
Jammie Jackson  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk