

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN K. LEVINE,  
Appellant,  
vs.  
WEST WENDOVER POLICE DEPT.,  
Respondent.

No. 51403

**FILED**

MAY 21 2008

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

ORDER DISMISSING APPEAL

This proper person appeal challenges a district court order denying appellant's motion to dismiss the underlying complaint. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge.

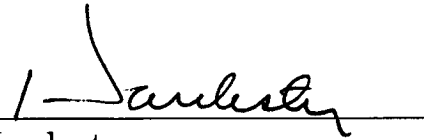
This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule.<sup>1</sup> No statute or court rule authorizes an appeal from an order denying a motion to dismiss.<sup>2</sup> Accordingly, we lack jurisdiction to consider this appeal, and we dismiss this appeal. We note, however, that we can review the district court's denial of appellant's motion to dismiss on direct appeal if he is aggrieved by the final judgment.<sup>3</sup>

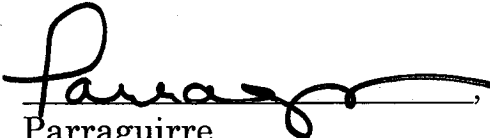
<sup>1</sup>Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

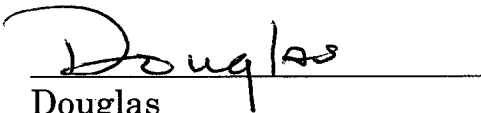
<sup>2</sup>See NRAP 3A(b) (listing orders and judgments from which an appeal may be taken)

<sup>3</sup>NRAP 3A(b)(1); see Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998) (stating that interlocutory orders may be challenged on appeal from final judgment).

It is so ORDERED.<sup>4</sup>

  
Hardesty, J.

  
Parraguirre, J.

  
Douglas, J.

cc: Hon. Andrew J. Puccinelli, District Judge  
Brian K. Levine  
Elko County District Attorney  
Elko County Clerk

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<sup>4</sup>On April 10, 2008, appellant was issued a notice to pay the Supreme Court filing fee no later than April 21, 2008. On April 21, 2008, appellant transmitted an application to proceed in forma pauperis to this court. However, pursuant to NRAP 24(a), appellant is required to submit his application to the district court for its determination. Only if the district court denies this request can appellant seek a waiver of filing fees from this court. Accordingly, we deny appellant's request to waive the filing fee. As such, we note that appellant's failure to pay the filing fee or otherwise comply with NRAP 24(a) constitutes an independent basis for dismissing this appeal.