

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD C. SMITH, JR.,
Petitioner,

vs.

THE SEVENTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
EUREKA, AND THE HONORABLE
STEVE L. DOBRESCU, DISTRICT
JUDGE,

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 53606

FILED

JUN 18 2009
TRADIEK LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

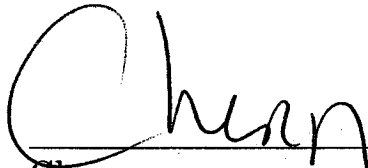
ORDER DENYING PETITION


This original petition for a writ of mandamus challenges a district court order dismissing an appeal from a judgment of conviction in justice court for lack of jurisdiction. Although a mandamus petition is the proper method of challenging a district court's decision to divest itself of its appellate jurisdiction, Floyd v. District Court, 36 Nev. 349, 356, 135 P. 922, 923 (1913), we are not convinced that the district court erred in concluding that based on the "rendition of the judgment" language in NRS 189.010 the appeal period commenced when the justice court pronounced the judgment and sentence in open court.¹ See State v. Connery, 99 Nev.

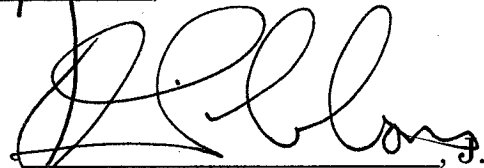
¹We acknowledge that this court has held that only a final judgment, signed by the judge and entered by the clerk, is effective and appealable, e.g., Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987), but the language in NRS 189.010 expressly runs the appeal period from the "rendition of the judgment" not from entry of the final judgment.

342, 344, 661 P.2d 1298, 1299 (1983) (addressing appeal period provided in prior version of NRS 177.066 allowing for appeal within 30 days after judgment's "rendition"); Lind v. Raynor, 69 Nev. 164, 243 P.2d 783 (1952) (addressing statutory appeal period under prior statute allowing for an appeal from a final judgment within 6 months after rendition of the judgment); Coleman v. Moore & McIntosh, 49 Nev. 139, 143, 241 P. 217, 218 (1925) ("Where the statute refers to the rendition of judgment, it means the formal announcement by the court, and does not mean the entry of the same by the clerk." (quoting Central T. Co. v. Holmes M. Co., 30 Nev. 437, 439-40, 97 P. 390, 391 (1908))). Because petitioner has not demonstrated that the district court erred in concluding that it lacked jurisdiction over petitioner's appeal from the justice court, we

ORDER the petition DENIED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Steve L. Dobrescu, District Judge
State Public Defender/Carson City
Attorney General Catherine Cortez Masto/Carson City
Eureka County District Attorney
Eureka County Clerk