

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
SALOME MARTINEZ,
Respondent.

No. 54277

FILED

AUG 25 2009

TRACIE A. LINDEMAN
CLERK OF SUPREME COURT
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DEPUTY CLERK

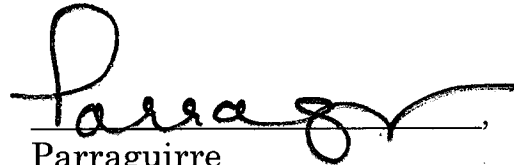
ORDER DISMISSING APPEAL

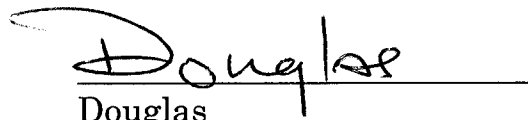
This is an appeal from a district court order granting a prejudgment motion for a new trial. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

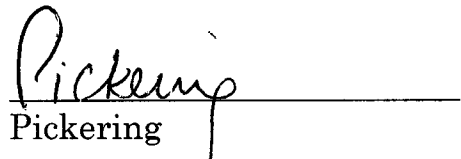
Respondent has moved to dismiss this appeal for lack of jurisdiction, arguing that the order is an intermediate order and under this court's holding in Lewis this court only has "authority to review determinations of the district court resolving post-conviction motions for a new trial." State v. Lewis, 124 Nev. ___, ___, 178 P.3d 146, 148 (2008). Appellant opposes the motion. Appellant concedes that this court stated in Lewis that the State cannot seek relief from a prejudgment order granting a new trial, but urges this court to reconsider the language in Lewis. We decline to reconsider Lewis, and we conclude that we lack

jurisdiction to consider this appeal. Accordingly, we grant respondent's motion, and we

ORDER this appeal DISMISSED.¹

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. Patrick Flanagan, District Judge
Washoe County District Attorney Richard A. Gammick
Arrascada & Arrascada, Ltd.
Washoe District Court Clerk

¹We deny appellant's request to treat the opposition as a petition for a writ of mandamus.