

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES CARTER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54517

FILED

NOV 13 2009

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

ORDER DISMISSING APPEAL

This is an appeal from the district court's purported "Findings of Fact, Conclusions of Law and Order." Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

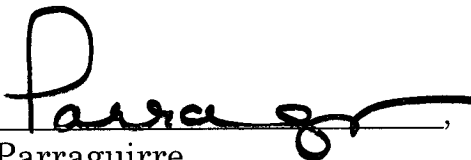
Our initial review of this appeal revealed a jurisdictional defect. First, it appeared that the district court had not entered a written "Findings of Fact, Conclusions of Law and Order," and based on the representations in the notice of appeal, it was not clear that appellant would be an aggrieved party. See NRAP 177.015 (providing that only an aggrieved party may appeal in a criminal action). Second, to the extent that appellant is attempting to appeal from the judgment of conviction, such an appeal is untimely, because the notice of appeal was filed well after the expiration of the 30-day appeal period prescribed by NRAP 4(b). "[A]n untimely notice of appeal fails to vest jurisdiction in this court." Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Third, to the extent appellant is attempting to appeal from the judgment of conviction under the provisions of NRAP 4(c)(1), it did not appear that the district court had entered a written order certifying that appellant had established a valid appeal-deprivation claim and is entitled to a direct appeal.

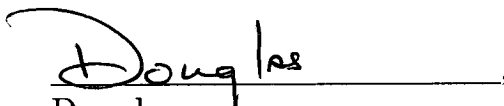
Accordingly, we ordered appellant's counsel to show cause why this appeal should not be dismissed for lack of jurisdiction.

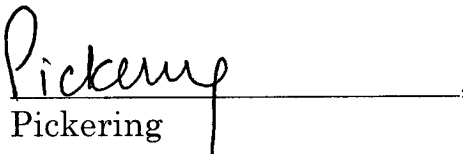
In response, appellant's counsel requests this court to permit appellant to withdraw the appeal without prejudice so counsel may return to the district court to obtain written "Findings of Fact, Conclusions of Law and Order" or an order certifying that appellant has established a valid appeal-deprivation claim and is entitled to a direct appeal, see NRAP 4(c)(1).

Based on the documents submitted in this appeal, it appears that the district court has not entered a final order resolving appellant's post-conviction petition for a writ of habeas corpus and additional proceedings may be necessary. Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


Parraguirre, J.


Douglas, J.


Pickering, J.

cc: Eighth Judicial District Court Dept. 7, District Judge
Cristalli & Saggese, Ltd.
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk