

IN THE SUPREME COURT OF THE STATE OF NEVADA

DURAND EUGENE BERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54706

**FILED**

**NOV 12 2009**

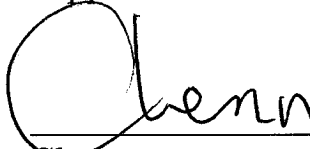
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK


ORDER DISMISSING APPEAL

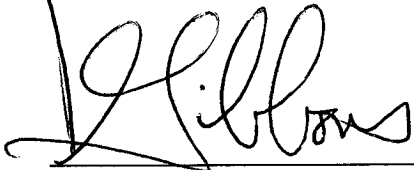
This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of burglary while in possession of a deadly weapon, robbery with the use of a deadly weapon, and open or gross lewdness. On November 3, 2009, counsel for appellant filed a motion to withdraw this appeal voluntarily. In the motion, counsel advises that she has informed appellant of the legal effects and consequences of voluntarily withdrawing this appeal, including that appellant cannot hereafter seek to reinstate this appeal, and that any issues that were or could have been brought in this appeal are forever waived. Having been so informed, appellant consents to a voluntary dismissal of this appeal. Cause

appearing, the motion is granted and we

ORDER this appeal DISMISSED.<sup>1</sup>

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Valerie Adair, District Judge  
Clark County Public Defender Philip J. Kohn  
Durand Eugene Berry  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

---

<sup>1</sup>Because no remittitur will issue in this matter, see NRAP 42(b), the one-year period for filing a post-conviction habeas corpus petition under NRS 34.726(1) shall commence to run from the date of this order.