

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
DEVIN MORGAN,
Respondent.

No. 55343

FILED

APR 13 2011

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

ORDER DISMISSING APPEAL AND VACATING DECEMBER 30, 2010
ORDER

This is an appeal from a district court order granting a motion for a judgment of acquittal. Third Judicial District Court, Lyon County; Leon Aberasturi, Judge. On December 30, 2010, this court entered an order reversing the district court's order and remanding. State v. Morgan, Docket No. 55343 (Order of Reversal and Remand, December 30, 2010). Thereafter, respondent filed a petition for rehearing and this court ordered an answer to the petition. Respondent passed away after the petition for rehearing was filed.

Appellant has now filed a "Notice of Withdrawal of Appeal in Lieu of Rehearing Answer." Appellant's counsel advises this court that appellant's interest in pursuing this appeal has ceased, he 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. We elect to treat the notice as a motion to withdraw this appeal voluntarily, and, cause appearing, grant the motion. Further, in order to return this matter to its

pre-appeal status, we conclude that our prior Order of Reversal and Remand must be vacated. Accordingly, we

ORDER this appeal DISMISSED and VACATE the December 30, 2010, Order of Reversal and Remand.

Douglas, C.J.
Douglas

Hardesty, J.
Hardesty

Pickering, J.
Pickering

cc: Hon. Leon Aberasturi, District Judge
Lyon County District Attorney
Stephen B. Rye
Lyon County Clerk