

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEMARIAN A. CLEMONS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56346

FILED

SEP 10 2010

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

ORDER DISMISSING APPEAL

This is a proper person appeal from a decision to deny a motion to modify without prejudice. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

The district court orally denied a motion to modify on June 22, 2010, without prejudice. It appears from a review of the minutes that the district court believed it did not have jurisdiction while an appeal was pending in this court in Clemons v. State, Docket No. 55638.

No appeal lies from a decision to deny a motion to modify without prejudice as this is not a final decision on the motion, and therefore, this court lacks jurisdiction over this appeal. NRS 177.015(3). However, we note that the district court erroneously concluded it had no jurisdiction over the motion to modify as a motion to modify is a separate proceeding from a post-conviction petition for a writ of habeas corpus. Accordingly, we

ORDER this appeal DISMISSED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Valorie Vega, District Judge
Demarian A. Clemons
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk