

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Appellant,  
vs.  
JERRY PAUL COMBS,  
Respondent.

No. 35159

**FILED**

MAR 01 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Bloom*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This appeal is subject to the provisions of Nevada Rule of Appellate Procedure 3C. On November 16, 1999, the district court orally granted respondent's motion to dismiss one of three counts of sexual assault against him. A fourth count was dismissed with the State's consent. On November 18, 1999, prior to the entry of a written order of dismissal from the district court, the State filed a notice of appeal.

On December 16, 1999, this court ordered the State to show cause why the appeal should not be dismissed as premature. On December 23, 1999, the State filed its response, arguing that it relied on this court's holding in *State v. Braidy*, 104 Nev. 669, 765 P.2d 187 (1988). Thereafter, respondent filed a motion to dismiss this appeal.


We conclude that the State's notice of appeal is premature. At the time the notice of appeal was filed, the district court had not entered its written order of dismissal. The time limits in NRS 177.015(2) and our holding in Braidy refer to an appeal from a pre-trial order granting a motion to suppress evidence. NRAP 4(b) is the rule applicable to this case, setting forth the time limits for appealing a district court's judgment or order of dismissal. As stated in our order of December 16, 1999, a judgment or order is entered

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within the meaning of this rule when it is signed by the judge and filed with the clerk. NRAP 4(b). See State v. Sant, 110 Nev. 748, 750, 877 P.2d 545, 546 (1994) (notice of appeal filed by the State after announcement of decision, but before entry of judgment fails to vest jurisdiction in this court). Because the State filed its notice of appeal prior to the entry of the district court's written order, we conclude that this court lacks jurisdiction to consider this appeal.

Accordingly, we order this appeal dismissed and deny as moot respondent's December 28, 1999, motion to dismiss.<sup>1</sup>

It is so ORDERED.

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Shearing

  
\_\_\_\_\_, J.  
Becker

cc: Hon. Jerry V. Sullivan, District Judge  
Attorney General  
Humboldt County District Attorney  
Donald York Evans  
Humboldt County Clerk

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<sup>1</sup>We further deny as moot respondent's motion of January 11, 2000, seeking leave to file a reply.