

IN THE SUPREME COURT OF THE STATE OF NEVADA

WESLEY C. HUNSUCKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35283

FILED

JAN 20 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This an appeal from an adverse determination at a Petrocelli¹ hearing and a purported violation of speedy trial rights.² Our review of this appeal reveals a jurisdictional defect. The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists. *Castillo v. State*, 106 Nev. 349, 792 P.2d 1133 (1990). No statute or court rule provides for an appeal from the ruling following a Petrocelli hearing or a general allegation of violation of speedy trial rights.

To the extent that appellant may be attempting to appeal from the jury's finding of guilt, our preliminary

¹*Petrocelli v. State*, 101 Nev. 46, 692 P.2d 503 (1985).

²Appellant has not filed an actual notice of appeal, but has filed in proper person two designations of record on appeal in the district court. We construe the documents filed in the district court as notices of appeal.

review of the documents before us reveals that the appeal is premature.

Specifically, on November 4, 1999, a jury found appellant guilty of three counts of unlawful possession of a gaming device. Based on our review of the documents submitted in this appeal, it appears that the district court has not yet sentenced appellant, nor has the district court entered a final, written judgment of conviction.

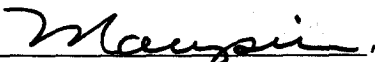
Although NRS 177.015(3) provides that a defendant may appeal from a "final judgment or verdict in a criminal case" (emphasis added), this court's rules of appellate procedure do not contemplate the filing of an appeal from a verdict prior to sentencing and entry of a written judgment of conviction. For example, NRAP 4(b) provides:

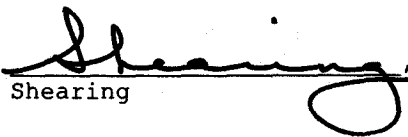
In a criminal case, the notice of appeal by a defendant shall be filed in the district court within thirty (30) days after the entry of the judgment or order appealed from. A notice of appeal filed after the announcement of a decision, sentence or order but before entry of the judgment or order shall be treated as filed after such entry and on the day thereof. . . . A judgment or order is entered within the meaning of this subdivision when it is signed by the judge and filed with the clerk.

(Emphasis added). Moreover, NRS 176.105(b) requires that the judgment of conviction must set forth the plea, the verdict, the adjudication and sentence, and the amount of credit granted for time spent in confinement before conviction, if any. Therefore, appellant must be sentenced and a written judgment of conviction must be entered by the district court before this court will entertain an appeal.

Accordingly, we order this appeal dismissed without prejudice to appellant's right to file and perfect a timely appeal following the district court's pronouncement of the sentence.

It is so ORDERED.


Maupin J.


Shearing J.


Becker J.

cc: Hon. John P. Davis, District Judge
Attorney General
Mineral County District Attorney
Lewis Taitel
Mineral County Clerk
Wesley C. Hunsucker