

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH ANTONETTI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 58408

**FILED**

**JUN 28 2011**

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

ORDER DISMISSING APPEAL

This appeal was initiated by the filing of a proper person notice of appeal. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

It appears from the contents of the notice of appeal that appellant is attempting to appeal the district court's decision to take a petition for a writ of habeas corpus off the court's calendar. The May 9, 2011 minutes indicate that the district court believed it had no jurisdiction because an appeal was purportedly still pending in this court.

Because no appeal lies from the district court's decision to take a petition off calendar, we lack jurisdiction over this appeal. Castillo v. State, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). However, we note that the documents before this court indicate that the prior appeal was dismissed by this court and the remittitur issued on February 7, 2011. Antonetti v. State, Docket No. 57458 (Order Dismissing Appeal, January 13, 2011). Thus, the district court would have had jurisdiction to consider the petition when the matter came before the court on May 9, 2011. The documents before this court indicate that Mr. Brent D. Percival is representing appellant in the proceedings below. Upon issuance of the

remittitur in this appeal, Mr. Percival may seek to place the petition back on the calendar of the district court. Accordingly, we

ORDER this appeal DISMISSED.

Cherry, J.  
Cherry

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

cc: Hon. Jessie Elizabeth Walsh, District Judge  
Joseph Antonetti  
Attorney General/Carson City  
Clark County District Attorney  
Brent D. Percival  
Eighth District Court Clerk