

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK MONTALVO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58677

FILED

MAY 01 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Ingersoll*
DEPUTY CLERK

ORDER DISMISSING APPEAL AND REMANDING

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of battery constituting domestic violence, coercion, and preventing or dissuading a witness from testifying or producing evidence. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant has moved to dismiss and remand this appeal. See Vest v. State, 120 Nev. 669, 98 P.3d 996 (2004). Appellant informs this court that the district court has granted his motion for a new trial and, because the State has not yet appealed from the order granting the motion for a new trial, this appeal has been rendered moot. Appellant states that the motion to dismiss is conditioned on the State not having filed a notice of appeal from the order granting the motion for a new trial. The State responds that it has not and does not intend to appeal from the order granting a motion for a new trial. The State therefore agrees that this appeal should be dismissed as moot. See id. We grant the motions and we,

ORDER this appeal DISMISSED and REMAND this appeal to the district court for further proceedings.¹

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. Michelle Leavitt, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹No remittitur will issue in this matter. See NRAP 42(b).