

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARC A. MCJOY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59049

FILED

SEP 16 2011

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

ORDER DISMISSING APPEAL


This is a proper person appeal from a decision of the district court to vacate consideration of a motion to withdraw a guilty plea. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

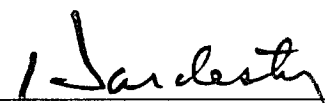
The documents before this court indicate that appellant filed a proper person motion to withdraw a guilty plea on April 25, 2011. On May 9, 2011, there is a docket entry indicating that the district court was vacating consideration of the motion because appellant was represented by counsel. This is not a final, appealable decision, and therefore, we lack jurisdiction over this appeal. NRS 177.015(3).

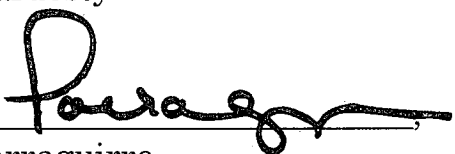
However, this court notes that the district court's decision not to consider the motion appears to be in error. It does not appear that appellant is represented at this time by counsel. Rather, it appears that trial counsel appears to be listed as counsel of record, despite the fact that appellant was convicted in 2004 and has litigated 3 post-conviction proceedings in proper person. McJoy v. State, Docket No. 47732 (Order of Affirmance, January 8, 2007); McJoy v. State, Docket No. 54114 (Order of Affirmance, March 10, 2010); McJoy v. State, Docket No. 56152 (Order of Affirmance, November 8, 2010). We are confident that the district court

will resolve the issue of counsel and the pending motion as expeditiously as its calendar permits. Accordingly, we

ORDER this appeal DISMISSED.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Stefany Miley, District Judge
Marc A. McJoy
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk