

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROLANDO GUADIAN REYNOSO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.


No. 59924

ROLANDO GUADIAN REYNOSO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60521

FILED

DEC 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL (DOCKET NO. 59924) AND ORDER OF
AFFIRMANCE (DOCKET NO. 60521)

Docket No. 59924 is an appeal from a judgment of conviction, pursuant to a jury verdict, of damage to prison and jails. Docket No. 60521 is an appeal from a second judgment entered in the same district court case. Seventh Judicial District Court, White Pine County; Dan L. Papez, Judge.

Docket No. 59924:

We lack jurisdiction to consider the appeal in Docket No. 59924 because the judgment of conviction entered on December 7, 2011, left the issue of restitution to be determined and, therefore, was not a final judgment. See NRS 177.015(3); Whitehead v. State, 128 Nev. ___, ___, 285 P.3d 1053, 1055 (2012). Accordingly, we dismiss the appeal in Docket No. 59924.

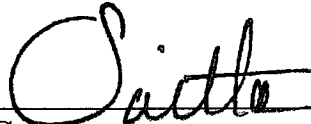
Docket No. 60521:

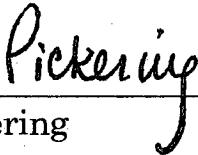
Appellant Rolando Guadian Reynoso claims that the State breached its duty of good faith by failing to provide him a copy of the booking video. Reynoso argues that witness testimony that there was a booking video undermined his counsel's credibility and prejudiced him because it contradicted his counsel's statement during opening statements that a booking video did not exist.

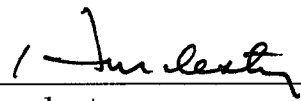
The record reveals that in response to Reynoso's specific request for any video of the crime, the District Attorney's Office correctly informed Reynoso that no video of the crime existed, but incorrectly informed Reynoso that there was no booking video. After the close of evidence, Reynoso brought this issue to the attention of the district court and moved for a mistrial. The district court denied the motion for a mistrial. Reynoso does not argue that the district court abused its discretion by denying the motion for a mistrial. Further, Reynoso does not argue that the incorrect information or the failure to disclose the booking video constituted a violation of NRS 174.235(1) or the provisions of Brady v. Maryland, 373 U.S. 83 (1963), nor does he allege that the booking video was exculpatory or material. See Mazzan v. Warden, 116 Nev. 48, 66-67, 993 P.2d 25, 36-37 (2000). The booking video was not presented as evidence to the jury and the witness testimony clearly established that there was no video of the crime, which was consistent with the essence of counsel's opening statement and Reynoso's defense theory that no one

witnessed him damage anything in the jail. We conclude that Reynoso failed to demonstrate any error or prejudice, see NRS 178.598, and we

ORDER the appeal in Docket No. 59924 DISMISSED and the judgment of conviction AFFIRMED.


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Seventh Judicial District Court, Dept. 2
State Public Defender/Ely
State Public Defender/Carson City
Attorney General/Carson City
White Pine County District Attorney
White Pine County Clerk