

IN THE SUPREME COURT OF THE STATE OF NEVADA

WIL PAIGE PENNY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62318

FILED

APR 09 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER DISMISSING APPEAL

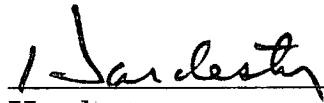
This is an appeal from a district court order granting a motion to dismiss appellant's post-conviction petition and supplemental petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

Appellant asserts in the fast track statement that the district court orders do not resolve all claims raised in the petitions filed below. The State appears to agree that not all claims have been resolved but argues that this court should decline to remand the matter to "re-evaluate" claims already rejected by this court on direct appeal or determined to be belied by the record.

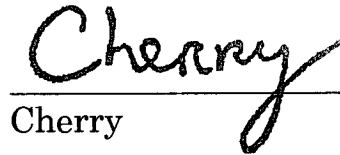
Our review of the documents submitted in this appeal reveals that the following claims remain unresolved: (1) the prosecutor committed misconduct at sentencing, (2) the district court abused its discretion by sentencing appellant to two consecutive terms arising from a single crime and failing to comply with NRS 193.165, (3) defense counsel coerced the plea, (4) appellant was prejudiced due to the court's failure to provide him with requested records and transcripts, (5) appellant was deprived of due process and equal protection when the district court did not order a competency evaluation prior to sentencing, and (6) all claims relating to

the ineffective assistance of appellate counsel. Because the district court order does not resolve all claims raised below, it is not a final order, and we lack jurisdiction.¹ Therefore, we

ORDER this appeal DISMISSED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Scott N. Freeman, District Judge
Karla K. Butko
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹We also note that although the district court orders disposed of the remaining claims either specifically or through implication, several of these dispositions are not properly supported by factual findings. See NRS 34.830(1). Specifically, the orders do not contain sufficient factual findings supporting denial of appellant's claims that counsel was ineffective for encouraging the court to consider inadmissible evidence at sentencing and failing to (1) move to withdraw the guilty plea as requested, (2) object to prosecutorial misconduct during sentencing, (3) correct factual errors in the presentence investigation report, and (4) investigate prior to the plea.