

IN THE SUPREME COURT OF THE STATE OF NEVADA

FORTINO SANCHEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63527

FILED

SEP 09 2013

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

ORDER DISMISSING APPEAL

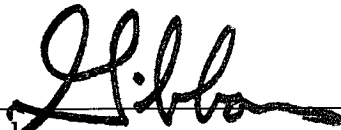
This is a proper person appeal from a decision of the district court taking a post-conviction petition for a writ of habeas corpus off calendar. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

During the time while his direct appeal has been pending in this court, *see Sanchez v. State*, Docket No. 60582, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The district court took the petition off calendar on April 16, 2013, because the case was on appeal to this court. Appellant filed a proper person notice of appeal from this decision.


Appellant's notice of appeal is premature. A decision to take a petition off calendar pending resolution of a direct appeal is not a final, appealable decision on the petition. *See* NRS 34.575(1). While the district court has jurisdiction to consider the petition because habeas corpus is a collateral proceeding, it is not an abuse of discretion to delay consideration of the habeas corpus petition pending the resolution of the direct appeal.

Because appellant failed to designate an appealable order, we lack jurisdiction over this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Valerie Adair, District Judge
Fortino Sanchez
Attorney General/Carson City
Clark County District Attorney
Clark County Public Defender
Eighth District Court Clerk