

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESSICA LORRAINE ROBERTSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64051

FILED

OCT 21 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Tracie K. Lindeman
DEPUTY CLERK

ORDER OF REMAND

This is an appeal from a district court order denying a post-conviction petition and supplemental petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

Appellant's counsel has filed a motion to withdraw this appeal. In support of the motion, appellant's counsel indicates that the district court granted appellant's motion for reconsideration and asserts that the district court's action has rendered this appeal moot. A copy of the district court's order granting reconsideration is attached to the motion.

The district court lacked jurisdiction to grant the motion for reconsideration after the notice of appeal had been filed. See NRS 177.155, NRS 177.305; *Foster v. Dingwall*, 126 Nev. ___, ___, 228 P.3d 453, 454-55 (2010); *Buffington v. State*, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994). If the district court was inclined to grant appellant relief on her motion for reconsideration, the appropriate action was to follow the procedure put forth in *Foster*. 126 Nev. at ___, 228 P.3d at 455. Nevertheless, under the circumstances, we elect to treat appellant's motion as a motion for remand to the district court and the district court's

order as certification of the district court's intention to grant reconsideration. We grant the motion and we

ORDER this matter REMANDED to the district court.¹

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Cherry, J.
Cherry

cc: Hon. Jerome Polaha, District Judge
Mary Lou Wilson
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹This order constitutes our final disposition of this appeal. Any subsequent appeal shall be docketed as a new matter.