

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Appellant,  
vs.  
AARON ROBERT HOXIE,  
Respondent.

No. 65375

**FILED**

JUL 22 2014

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

*ORDER DISMISSING APPEAL*

This is an appeal from an amended judgment of conviction, pursuant to a guilty plea, of conspiracy to commit coercion. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

Our initial review of this appeal revealed a potential jurisdictional defect. Specifically, no statute or court rule allows the State to appeal from an amended judgment of conviction. See NRS 177.015(3) (only a defendant may appeal from a final judgment in a criminal case); *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (the right to appeal is statutory; where no statute or court rule authorizes an appeal, no right to an appeal exists). Accordingly, this court ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

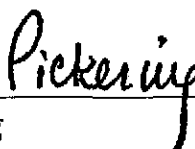
In response, appellant explains that respondent moved the district court to allow him to withdraw his guilty plea and enter a plea to a new, lesser offense. Appellant asserts that this motion “effectively amounted to a motion for an acquittal” of the original conviction. Because the amended judgment of conviction was entered in response to respondent’s motion and granted him the requested relief, the State

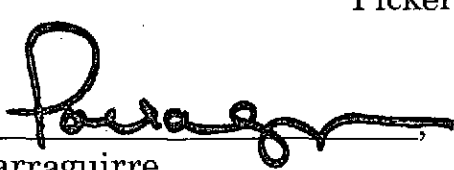
argues that it functioned as an order granting a motion to acquit and is appealable pursuant to NRS 177.015(1)(b). Appellant also asserts that because it cannot proceed on the original charge or file new charges, the practical effect of the district court's order is to acquit respondent of the original offense.

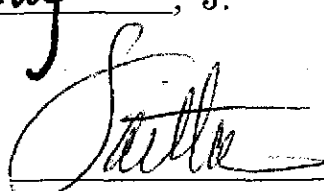
An acquittal is generally defined as a ruling that the State has provided insufficient evidence to establish a defendant's criminal liability for an offense. *Evans v. Michigan*, 568 U.S. \_\_\_, \_\_\_, 133 S. Ct. 1069, 1074-75 (2013). Here, the district court did not make any findings regarding the sufficiency of the evidence and its ruling did not relate to respondent's guilt or innocence. Therefore, we conclude that the district court's order does not function as an order granting a motion to acquit.

Because no statute or court rule allows the State to appeal from an amended judgment of conviction, and appellant has failed to demonstrate that the amended judgment of conviction is appealable pursuant to NRS 177.015(1)(b), we conclude that we lack jurisdiction, and we

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Elizabeth Goff Gonzalez, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
Clark County Public Defender  
Eighth District Court Clerk