

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARMELLO SEBASTION MOTTA,  
Appellant,

vs.

THE STATE OF NEVADA,  
Respondent.

CARMELO SABASTION MOTTA,  
Appellant,

vs.

THE STATE OF NEVADA,  
Respondent.

No. 73011

No. 73339'

**FILED**

AUG 25 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DISMISSING APPEAL IN DOCKET NO. 73339 AND DENYING  
MOTION TO CONSOLIDATE*

Docket No. 73011 is an appeal from a judgment of conviction. Docket No. 73339 is an appeal from an amended judgment of conviction in the same district court case. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

On July 14, 2017, this court entered an order in Docket No. 73339, directing appellant to show cause why the appeal should not be dismissed for lack of jurisdiction because it appeared that appellant was not aggrieved by the amended judgment of conviction.<sup>1</sup> In response to the order

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<sup>1</sup>It also appears that the amended judgment of conviction, entered in the district court on June 9, 2017, is void because the district court lacked jurisdiction to amend the judgment of conviction where the judgment was the subject of a pending appeal. *See e.g. Foster v. Dingwall*, 126 Nev. 49, 52-53, 228 P.3d 453, 454-55 (2010); *Buffington v. State*, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994). Ordinarily, if the district court is inclined to grant relief and amend the judgment of conviction, the district court should certify its inclination and appellant should seek a limited remand pursuant to the procedure outlined in *Foster*, 126 Nev. at 52-53, 228 P.3d at 454-56.

to show cause, appellant agrees that he is not aggrieved by the amended judgment of conviction.

The appeal in Docket No. 73339 is hereby dismissed. Based on this dismissal, appellant's motion to consolidate these appeals is denied. Appellant shall have 14 days from the date of this order to file and serve a fast track reply in Docket No. 73011, pursuant to NRAP 3C(e)(3). Failure to file a timely fast track reply may be treated as a waiver of the right to file a reply.

It is so ORDERED.

*Douglas*, J.  
Douglas

*Pickering*, J.  
Pickering

*Hardesty*, J.  
Hardesty

cc: Hon. Kimberly A. Wanker, District Judge  
The Law Office of David Rickert  
Attorney General/Carson City  
Nye County District Attorney  
Nye County Clerk