

IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON PAUL KELLY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72732

FILED

JUL 05 2017

CLERK OF THE SUPREME COURT
BY *AWilcox*

ORDER DISMISSING APPEAL

This is an appeal from an order denying a pretrial petition for a writ of habeas corpus. First Judicial District Court, Carson City; James E. Wilson, Judge.

Because an order denying a pretrial habeas petition is not an appealable order, *see, e.g., Gary v. Sheriff*, 96 Nev. 78, 605 P.2d 212 (1980), this court directed appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. In response, appellant proposes that this court exercise its discretion to review appellant's challenge to the constitutionality of the statute under which he is charged. Respondent has filed a reply.

The right to appeal is statutory, not discretionary, and where no statute or court rule provides for an appeal, no right to appeal exists. *Castillo v. State*, 106 Nev. 349, 352 (1990). Appellant may challenge the

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district court's order after a judgment of conviction is filed. *Gary*, 98 Nev.
at 80, 605 P.2d at 214. We lack jurisdiction over this appeal, and we

ORDER this appeal DISMISSED.

J. Hardesty, J.
Hardesty

Parraguirre, J.

Parraguirre

Stiglich, J.
Stiglich

cc: Hon. James E. Wilson, District Judge
State Public Defender/Carson City
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk