

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES CLINTON NEWTON, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72326

FILED

APR 21 2017

ELIZABETH A. BROWN
CLERK OF THE SUPREME COURT
BY *Amulca*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from a purported order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant filed a pro se petition for a writ of habeas corpus in district court on November 4, 2016. The district court removed the petition from the calendar on January 20, 2017. Appellant filed a notice of appeal on February 2, 2017.


As the district court has not made a final decision on appellant's petition, the notice of appeal is premature, and we lack jurisdiction to consider this appeal. A decision taking the petition off calendar is not a final decision as the district court retains the jurisdiction to place the petition back on calendar for review. There is no authority in NRS chapter 34 allowing the district court to take a petition off calendar in lieu of resolving the petition on the merits or other procedural grounds. NRS 34.740 requires the district court to provide an expeditious examination of a postconviction petition for a writ of habeas corpus. NRS 34.830 provides that any final order that disposes of a postconviction petition for a writ of habeas corpus must contain specific findings of fact

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and conclusions of law and that service of notice of entry of the order be performed by the clerk of the district court. NRAP 4(b)(5)(B) requires the district court to enter any order finally resolving a postconviction petition for a writ of habeas corpus within 20 days of the district court's oral pronouncement of a final decision. Appellant may not file an appeal to this court unless the district court has entered a final decision on the petition. See NRS 34.575; NRAP 4(b)(1).

Because no final order has been entered, we lack jurisdiction to consider this appeal. Accordingly, we

ORDER this appeal DISMISSED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Hon. Stefany Miley, District Judge
Charles Clinton Newton, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk