

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEVIN JAMES FITZSIMMONS,  
Appellant,  
vs.  
HAROLD WICKHAM, WARDEN,  
WARM SPRINGS CORRECTIONAL  
CENTER,  
Respondent.

No. 77286-COA

**FILED**

**MAY 11 2020**

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

*ORDER DISMISSING APPEAL*


Kevin James Fitzsimmons appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on July 26, 2016, and a supplemental petition filed on November 6, 2017. Second Judicial District Court, Washoe County; Kathleen M. Drakulich, Judge.

Our review of this appeal reveals a jurisdictional defect: the district court has not resolved all of the claims raised in Fitzsimmons' pleadings below. In an April 29, 2019, pleading filed in the instant appeal, the parties stipulated that, in regard to ground three of the supplemental petition, the district court did not resolve the issue of the presentence investigation report (PSI) for which it had ordered the submission of evidence and additional briefing. *See Stipulation for Order of Limited Remand, Fitzsimmons v. Warden*, Docket No. 77286 (April 29, 2019). An order was entered on May 15, 2019, directing the district court to resolve, among other things, the PSI issue. *See Fitzsimmons v. Warden*, Docket No. 77286 (Order, May 15, 2019).

In response to the order, the district court entered an order purporting to dismiss the remainder of Fitzsimmons' claims. The order did not address the claim regarding the PSI. We further note that neither order of the district court addressed the portion of ground 2 of the supplemental petition that claimed counsel was ineffective for failing to advise Fitzsimmons that the State had filed a notice of evidence it intended to use in the sentencing hearing. The district court has thus not entered a final order disposing of all claims raised. *See Sandstrom v. Second Judicial Dist. Court*, 121 Nev. 657, 659, 119 P.3d 1250, 1252 (2005) (“[A] final order [is] one that disposes of all issues and leaves nothing for future consideration.”). Accordingly, we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Kathleen M. Drakulich, District Judge  
Oldenburg Law Office  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk