


IN THE SUPREME COURT OF THE STATE OF NEVADA

LUCAS STEPHEN SCHWEIZER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87522

FILED

DEC 11 2024

ELIZABETH A. BROV.
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

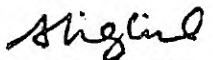
This is an appeal from a district court order denying appellant Lucas Schweizer's "motion for an order setting aside the conviction, withdrawing the plea, dismissal of the case, and sealing of the record." Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

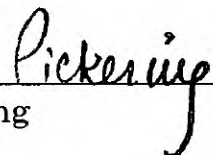
Schweizer has not demonstrated that the challenged order is appealable. *See Moran v. Bonneville Square Assocs.*, 117 Nev. 525, 527, 25 P.3d 898, 899 (2001) ("[T]he burden rests squarely upon the shoulders of a party seeking to invoke our jurisdiction to establish, to our satisfaction, that this court does in fact have jurisdiction."). Specifically, Schweizer asserts that the order is appealable as the functional equivalent of an order denying a motion for a new trial under NRS 177.015(1)(b). We disagree for two reasons. First, Schweizer did not challenge the validity of the guilty plea and thus his motion did not serve the same function as a motion for a new trial. *Cf. Hargrove v. State*, 100 Nev. 498, 501, 686 P.2d 222, 224 (1984) (analogizing a motion to withdraw a guilty plea to a motion for new trial because, in part, "[b]oth motions serve an identical function, since both argue that the predicate of guilt, whether it be plea or verdict, is suspect or defective and must be set aside"). Second, the effect of granting Schweizer's

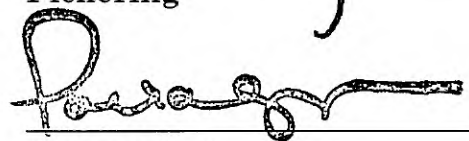
motion would not have been the same as granting a motion for new trial—it would not have “entail[ed] further proceedings on the charges originally filed.” *Id.* (discussing similarities in relief when granting a motion to withdraw a guilty plea and a motion for a new trial). Likewise, Schweizer’s contention that the appeal could be construed as a “postconviction appeal” under NRAP 3C(a) lacks merit because Schweizer did not file a postconviction habeas petition, and the district court did not construe Schweizer’s motion as such. Finally, the challenged order is not appealable under NRS 177.015(3). *See Kabew v. Eighth Jud. Dist. Ct.*, 140 Nev., Adv. Op. 20, 545 P.3d 1137, 1139-40 (2024) (entertaining an original petition because petitioner had no other adequate remedy to challenge a similar order).

None of the statutes or court rules advanced by Schweizer permit an appeal from an order denying a request to set aside the conviction, withdraw the guilty plea, dismiss the case, and seal the record. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (explaining that this court has jurisdiction only when statute or court rule provides for appeal). Accordingly, this court lacks jurisdiction, and we

ORDER this appeal DISMISSED.


_____, J.
Stiglich


_____, J.
Pickering


_____, J.
Parraguirre

cc: Hon. Michael Montero, District Judge
Nevada State Public Defender's Office
Humboldt County Public Defender
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk