



IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
AMADEO ORTEGA, JR.,
Respondent.

No. 90944

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting an honorable discharge from probation. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Senior Judge. This court previously considered the parties' arguments in response to an order to show cause why this appeal should not be dismissed for lack of jurisdiction. This court permitted the appeal to proceed but cautioned that this matter remained subject to later dismissal should it be determined that this court lacks jurisdiction. Having reviewed the briefs and record, we conclude dismissal is warranted.

"[T]he right to appeal is statutory; where no statutory authority to appeal is granted, no right to appeal exists." *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). No statute or court rule provides for an appeal from a district court order granting an honorable discharge from probation.

The State asserts that a probation discharge order is analogous to an order resolving a motion for a new trial and is therefore appealable under NRS 177.015(1)(b). *See State v. Eighth Judicial Court (Brown)*, 141 Nev., Adv. Op. 27, 569 P.3d 637, 640 (2025) (holding that the State could appeal from an order denying a motion to correct an illegal sentence because such order was analogous to an order resolving a motion to modify a sentence and, by extension, to an appealable order resolving a motion for new trial). In *Brown*, we concluded that, like a motion to modify a sentence, a motion to correct an

illegal sentence could be likened to a motion for a new trial because each involved a “moving party . . . seeking a new proceeding on the premise that the factual underpinnings of the district court’s decision were incorrect.” *Id.*; see also *Passanisi v. State*, 108 Nev. 318, 321, 831 P.2d 1371, 1373 (1992) (concluding that a motion to modify a sentence and a motion for a new trial share the same “timing and scope” because they both challenge the factual basis for the district court’s decision and seek a new proceeding as a remedy), *overruled in part on other grounds by Harris v. State*, 130 Nev. 435, 446-48, 329 P.3d 619, 627-28 (2014). A petition for discharge from probation shares none of the characteristics of the motions discussed in *Brown*. It does not challenge a predicate of the underlying sentence or seek new proceedings. Rather, it seeks to conclude the probationer’s interactions with the court within the parameters of the existing sentence. Accordingly, the order is not appealable and this court thus lacks jurisdiction to consider this appeal. We therefore

ORDER this appeal DISMISSED.



Bell, J.



Stiglich, J.



Cadish, J.

cc: Hon. Carolyn Ellsworth, Senior Judge
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