

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARK ANTHONY HARRIS,

No. 38587

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

DEC 05 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Boland*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court denying appellant's motion to clarify his sentence. Our review of this appeal revealed a potential jurisdictional defect. The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists.¹ Accordingly, on November 2, 2001, this court ordered appellant's counsel to show cause why this appeal should not be dismissed for lack of jurisdiction.

On November 9, 2001, counsel filed a response. In the response, counsel fails to identify a statute or court rule that provides for an appeal from an order denying a motion to clarify a sentence. To the extent that appellant challenges the district judge's statement that he would not grant a motion to withdraw, this court would prefer to review that issue after a record has been made in the district court. Specifically, we note that appellant has not yet filed a motion to withdraw his guilty plea in the district court, and the district court should be given an

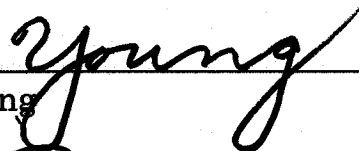
¹Castillo v. State, 106 Nev. 349, 792 P.2d 1133 (1990).

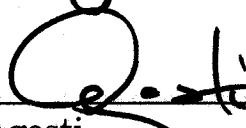
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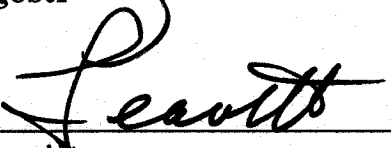
opportunity to conduct an evidentiary hearing, if necessary, and fully consider the merits of appellant's argument.

We therefore conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. Jeffrey D. Sobel, District Judge
Attorney General/Carson City
Clark County District Attorney
Goodman Chesnoff & Keach
Clark County Clerk