

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT THOMAS BURNHAM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39917

FILED

AUG 21 2002

ORDER DISMISSING APPEAL

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

Appellant purports to appeal in proper person from an order of the district court denying his post-conviction petition for a writ of habeas corpus. Our review of this appeal reveals a jurisdictional defect. The district court had not made a decision, oral or written, on appellant's petition at the time he filed his notice of appeal. Rather the district court determined that an evidentiary hearing was warranted and set the matter for an evidentiary hearing. Accordingly, we conclude that appellant's notice of appeal was premature, and we dismiss this appeal without prejudice to appellant's right to appeal from a final, written order of the district court denying his petition.¹ Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.

Young
_____, J.
Young

Agosti
_____, J.
Agosti

Leavitt
_____, J.
Leavitt

¹An appeal from an order denying a post-conviction petition for a writ of habeas corpus must be filed within thirty-three days after proper service of notice of entry of the order by the clerk of the district court. See NRS 34.575; NRS 34.830; NRAP 26(c).

cc: Hon. Donald M. Mosley, District Judge
Attorney General/Carson City
Clark County District Attorney
Robert Thomas Burnham
Clark County Clerk