

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
CHRISTOPHER JOHN THOMAS,
Respondent.

No. 40382

FILED

DEC 31 2002

ORDER DISMISSING APPEAL

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

This is an appeal from an order of the district court granting a motion to suppress evidence. Our preliminary review of the documents submitted in this appeal revealed a jurisdictional defect.

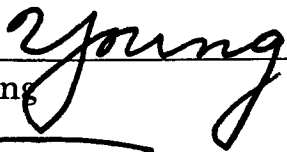
On October 11, 2002, the State filed a notice of appeal in the district court from the ruling of the district court rendered on October 11, 2002, granting respondent's motion to suppress evidence. The State did not, however, file a separate notice of appeal with this court as required by NRS 177.015(2).¹ In State v. Loyle, this court held that where a separate notice of appeal was not filed with this court within 5 judicial days of the district court's suppression ruling, this court lacked jurisdiction to consider the appeal.² Thus, it appeared that this court lacked jurisdiction to consider this appeal due to the State's failure to file a separate notice of appeal in this court.


¹NRS 177.015(2) provides in pertinent part that a: "notice of appeal must be filed with the clerk of the district court within 2 judicial days and with the clerk of the supreme court within 5 judicial days after the ruling by the district court [on the motion to suppress]."

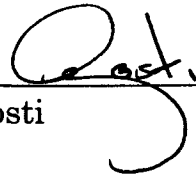
²101 Nev. 65,66-67, 692 P.2d 516, 517 (1985).

Accordingly, on November 5, 2002, this court ordered the State to show cause why this appeal should not be dismissed. On November 7, 2002, respondent filed a motion to dismiss this appeal for lack of jurisdiction. On December 2, 2002, the State filed a response, in which the State does not oppose the motion to dismiss and concedes that this court lacks jurisdiction to entertain this appeal. Accordingly, we

ORDER this appeal DISMISSED.


_____, C.J.
Young


_____, J.
Rose


_____, J.
Agosti

cc: Hon. Steve L. Dobrescu, District Judge
Attorney General/Carson City
Lincoln County District Attorney
State Public Defender/Carson City
State Public Defender/Ely
Lincoln County Clerk