

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES BLAIN WHITE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 41035

FILED

JUN 25 2003

ORDER DISMISSING APPEAL

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

This is an appeal from an order of the district court denying appellant's pre-trial petition for a writ of habeas corpus. Our review of this appeal reveals a jurisdictional defect. The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists.<sup>1</sup> No statute or court rule provides for an independent appeal from an order of the district court denying a pre-trial petition for a writ of habeas corpus.<sup>2</sup>

On March 28, 2003, this court directed appellant's counsel to show cause why this appeal should not be dismissed for lack of jurisdiction. To date, counsel has not responded to this court's show cause

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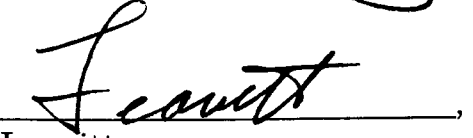
<sup>1</sup>Castillo v. State, 106 Nev. 349, 792 P.2d 1133 (1990).


<sup>2</sup>See NRS 34.575(1) ("An applicant who, after conviction or while no criminal action is pending against him, has petitioned the district court for a writ of habeas corpus and whose application for the writ is denied, may appeal to the supreme court from the order and judgment of the district court"); NRS 177.015(3) ("The defendant only may appeal from a final judgment or verdict in a criminal case"); see also Gary v. Sheriff, 96 Nev. 78, 605 P.2d 212 (1980) (holding that no appeal lies from an order denying a pre-trial petition for a writ of habeas corpus); compare NRS 177.045 ("Upon the appeal, any decision of the court in an intermediate order or proceeding, forming a part of the record, may be reviewed").

order. We elect to treat counsel's failure to respond as a concession that this court lacks jurisdiction to consider this appeal. Accordingly, we hereby

ORDER this appeal DISMISSED.

 J.  
Shearing

 J.  
Leavitt

 J.  
Becker

cc: Hon. Steven P. Elliott, District Judge  
Robert Bruce Lindsay  
Attorney General Brian Sandoval/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk