

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LEONARD MORGAN HAIRSTON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 68404

**FILED**

**MAR 16 2016**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted theft. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.


Appellant Leonard Hairston claims his entire case was effectively dismissed upon issuance of the remittitur in his appeal in Nevada Supreme Court Docket No. 66372 and, therefore, the district court lacked jurisdiction to enter the judgment of conviction in this matter.

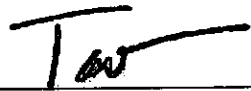
On September 25, 2014, the Nevada Supreme Court dismissed Hairston's appeal in Docket No. 66372 for lack of jurisdiction because no statute or court rule permits an appeal from an order granting a motion to quash a bench warrant and setting bail. The remittitur issued in that appeal on October 23, 2014. The district court entered the judgment of conviction on August 17, 2015.


Initially, we note the district court was never divested of jurisdiction over Hairston's criminal case because the Nevada Supreme Court lacked jurisdiction of the appeal in Docket No. 66372. *Cf. State v. Barren*, 128 Nev. \_\_\_, \_\_\_, 279 P.3d 182, 184 (2012) ("notwithstanding exceptions inapplicable here, some court always has jurisdiction over a

criminal defendant"). Even if the filing of the appeal in Docket No. 66372 had divested the district court of jurisdiction in the criminal matter, upon issuance of the remittitur in Docket No. 66372, the Nevada Supreme Court would have been divested of jurisdiction over the appeal and jurisdiction would have been remitted to the district court. See NRS 177.305; *Buffington v. State*, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994). Accordingly, we conclude Hairston's claim lacks merit, and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Carolyn Ellsworth, District Judge  
Carl E. G. Arnold  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk