

IN THE SUPREME COURT OF THE STATE OF NEVADA

VINCENT DEPASQUALE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36583

**FILED**

NOV 29 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This proper person appeal purports to appeal from an order of the district court dismissing appellant's petition for post-conviction relief.

On September 26, 1989, appellant was convicted, pursuant to a jury verdict, of first degree murder and received a sentence of death. This court affirmed appellant's conviction and sentence. *DePasquale v. State*, 106 Nev. 843, 803 P.2d 218 (1990). The remittitur issued October 23, 1991.

On March 5, 1992, appellant, by and through counsel, filed a post-conviction petition for a writ of habeas corpus in the district court. Subsequently, the State and appellant entered into the following agreement, which was reduced to writing and signed by the attorneys and appellant: (1) the State of Nevada agreed to make an unspecified confession of error in the penalty phase of appellant's trial, which would result in appellant's death sentence being vacated, (2) the State and appellant agreed to the imposition of a sentence of life in the Nevada State Prison without the possibility of parole, (3) appellant agreed not to appeal from an amended judgment of conviction, (4) appellant agreed to dismiss the petition for post-conviction relief, and (5) the State agreed that appellant

was eligible for placement in the extended care unit at the Ely State Prison. The district court conducted a hearing, during which the district court painstakingly canvassed appellant about his understanding of the agreement. At the conclusion of the hearing, the district court stated that it was satisfied that appellant was competent to enter into the agreement, found that appellant knowingly and voluntarily entered into the agreement and imposed a term of life in the Nevada State Prison without the possibility of parole. On January 19, 1993, the district court entered an amended judgment of conviction reflecting a sentence of life in the Nevada State Prison without the possibility of parole.

On August 14, 2000, appellant filed a notice of appeal in the district court. In his notice of appeal, appellant purported to appeal from an order of the district court dismissing appellant's petition for post-conviction relief. Appellant's notice of appeal was filed in this court on August 16, 2000, and docketed in this court in Docket No. 36583.

On September 13, 2000, the State filed a motion to dismiss the appeal in this court. The State argues that appellant's appeal should be dismissed because there is no final judgment from which appellant could appeal. The State notes that appellant did not file a petition for post-conviction relief in the district court immediately prior to the notice of appeal and that the district court did not enter a written order dismissing a post-conviction petition for a writ of habeas corpus immediately prior to the notice of appeal.

Cause appearing, we grant the State's motion to dismiss. Contrary to NRAP 3(c), appellant fails to adequately designate the order from which he purports to appeal. Our review

of the record on appeal reveals that there is no final judgment from which appellant could appeal from in this case. The only post-conviction petition filed in the district court was dismissed by appellant himself in 1993 pursuant to the agreement described above. There is no final judgment, and appellant is not an aggrieved party. See NRS 177.015; NRS 34.575.

Accordingly, we

ORDER this appeal dismissed.<sup>1</sup>

Rose, C.J.

Young, J.

Becker, J.

cc: Hon. William A. Maddox, District Judge  
Attorney General  
Carson City District Attorney  
Vincent Depasquale  
Carson City Clerk

<sup>1</sup>We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.