

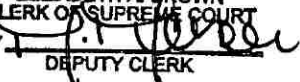
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTONIO LAMARCUS MASTERS,  
Appellant,  
vs.  
WILLIAM A. GITTERE, WARDEN; AND  
THE STATE OF NEVADA,  
Respondents.

No. 86137-COA

**FILED**

OCT 06 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This appeal was initiated by the filing of a pro se notice of appeal. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

Appellant Antonio LaMarcus Masters filed a notice of appeal on February 16, 2023, that failed to designate the judgment or order being appealed as required by NRAP 3(c)(1)(B). To the extent Masters appeals from the written order of the district court, entered on January 30, 2023, and denying Masters' October 28, 2021, postconviction petition for a writ of habeas corpus, the order was the district court's second written order denying the 2021 petition. The district court first issued a written order denying Masters' 2021 petition on May 4, 2022. This court affirmed that order on January 13, 2023, and the remittitur was issued on February 8, 2023. *See Masters v. Gittere*, No. 84608-COA, 2023 WL 1433753 (Order of Affirmance, Jan. 13, 2023).

The district court was without jurisdiction to issue its January 30, 2023, order because the subject of that order was on appeal before this court and the remittitur had not yet issued. *See Mack-Manley v. Manley*, 122 Nev. 849, 855, 138 P.3d 525, 529-30 (2006) (stating "when an appeal is

perfected, the district court is divested of jurisdiction to revisit issues that are pending before this court”); *Buffington v. State*, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994) (stating the district court “lacks jurisdiction over a case until the remittitur is issued”). Accordingly, the January 30, 2023, order is void.

To the extent Masters appeals any denial of his postconviction petition for a writ of habeas corpus filed on December 21, 2022, no decision had been made on the petition when Masters filed the notice of appeal on February 16, 2023. And a defendant only may appeal from a final judgment or verdict. NRS 177.015(3).

Because Masters has failed to designate an appealable order, we lack jurisdiction to consider this appeal. Accordingly, we

ORDER this appeal DISMISSED.

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

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Mary Kay Holthus, District Judge  
Antonio Lamarcus Masters  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk