

IN THE SUPREME COURT OF THE STATE OF NEVADA

GENE ANTHONY ALLEN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44597

**FILED**

FEB 15 2005

ORDER DISMISSING APPEAL

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

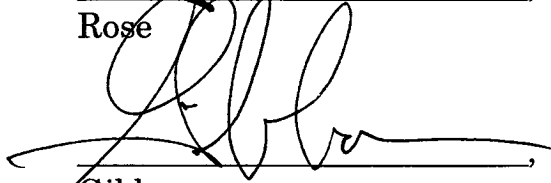
This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus and a request for an evidentiary hearing. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

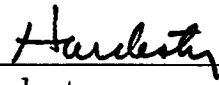
This court's review of this appeal reveals a jurisdictional defect. The district court had not made a decision, oral or written, on appellant's petition and request at the time he filed his notice of appeal. We conclude that appellant's notice of appeal was premature, and we dismiss this appeal without prejudice to appellant's right to file a timely

appeal from a final, written order denying his petition. Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

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

  
\_\_\_\_\_, J.  
Rose

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

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. John S. McGroarty, District Judge  
Gene Anthony Allen  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>1</sup>On February 4, 2005, we received appellant's proper person document, and we conclude no relief is warranted.