

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant/Cross-Respondent,

vs.

NARCUS S. WESLEY A/K/A NARCUS
SAMONE WESLEY,
Respondent/Cross-Appellant.

No. 52127

FILED

SEP 03 2008

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

ORDER DISMISSING APPEAL BY STATE OF NEVADA


This is an appeal and cross-appeal from a judgment of conviction. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

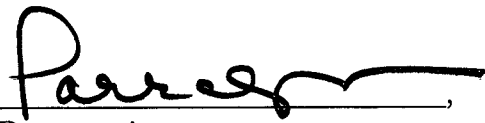
Our initial review of the State's notice of appeal revealed a jurisdictional defect. Specifically, no statute or court rule authorizes the state to appeal from a judgment of conviction. See NRS 177.015(3) (allowing defendant to appeal from a final judgment in a criminal matter). The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists.¹ Accordingly, this court ordered the State to show cause why its appeal should not be dismissed for lack of jurisdiction.


¹State v. Shade, 110 Nev. 57, 63, 867 P.2d 393, 396 (1994); Mazzan v. State, 109 Nev. 1067, 1075, 863 P.2d 1035, 1039-40 (1993).

In response, the State agrees that "no statute [gave them] the right to appeal from a final judgment in a criminal case" and consents to dismiss its appeal for lack of jurisdiction. Therefore, we

ORDER the State's appeal DISMISSED.²


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. James M. Bixler, District Judge
Clark County District Attorney David J. Roger
Dan M. Winder
Eighth District Court Clerk

²Appellant Narcus Wesley's appeal may proceed. Wesley shall have 120 days from the date of this order to file and serve the opening brief and appendix.