

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROY MCDOWELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54544

FILED

SEP 22 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER RE: ENTRY OF WRITTEN JUDGMENT OR ORDER
AND RECORD ON APPEAL

This is a proper person appeal from a decision of the district court denying a post-conviction petition for a writ of habeas corpus. This court's review of this appeal indicates that, as of the date of this order, the district court has not entered a written order denying the petition. The criminal court minutes indicate that the district court orally denied the petition in court on August 27, 2009. Prior to the entry of a final, written judgment or order, and the timely filing of a notice of appeal, the district court technically retains jurisdiction over appellant's case. See Bradley v. State, 109 Nev. 1090, 1094-95, 864 P.2d 1272, 1275 (1993). In a criminal case, a notice of appeal filed after announcement of the decision, but before entry of the written judgment or order is deemed to have been filed "after such entry and on the day thereof." NRAP 4(b)(1). Thus, a copy of the written judgment or order is essential to a determination of this court's jurisdiction to consider this appeal.

Accordingly, the district court shall have 30 days from the date of this order within which to: (1) enter a written judgment or order or (2) inform this court that it is reconsidering its decision. In the event the

district court enters a written judgment or order (or has already entered a written judgment or order of which this court is unaware), the clerk of the district court shall immediately transmit a certified copy of the judgment or order to the clerk of this court.

Further, the clerk of the district court shall, within 60 days from the date of this order, transmit to the clerk of this court a certified copy of the complete trial court record of this appeal. See NRAP 11(a)(2) (the complete record shall contain each and every paper, pleading and other document filed, or submitted for filing, in the district court, as well as any previously prepared transcripts of the district court proceedings). The record shall not include any physical, non-documentary exhibits or the original documentary exhibits filed in the district court, but copies of documentary exhibits submitted in the district court proceedings shall be transmitted as part of the record on appeal. The record shall also include any presentence investigation reports submitted in this matter. The clerk of the district court shall transmit the reports to this court in a sealed envelope identifying the contents and marked confidential. See NRS 176.156(5).

It is so ORDERED.

1. J. J. J. J., C.J.

cc: Hon. Michelle Leavitt, District Judge
Roy McDowell
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk