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IN THE SUPREME COURT
OF THE STATE OF NEVADA

FILED

SEP 15 2011

ROBERT HOLMES, III,
Appellant,
VS.
THE STATE OF NEVADA,
Respondent.

No. 58625

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

**PROPER PERSON
RECEIVED/ENTERED**

JUL 29 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

PETITION FOR REHEARING BY PANEL

ROBERT HOLMES, III #1034184
SO. DESERT CORR. CTR.
P.O. Box 208
Indian Springs, NV
89070
Appellant, Pro Per

SANDRA K. DIGIACOMO
Chief Dep. Dist. Atty.
200 Lewis Ave.
Las Vegas, NV
89155
Respondent

COMES NOW, Robert Holmes, III,
appellant in pro per, who respectfully
requests this panel pursuant to NRAP 40
to reconsider its Order Dismissing Appeal
("ODA") of the district court's denial of
appellant's motion for return of seized
property.

RECEIVED

JUL 29 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

11-88948

POINTS AND AUTHORITIES

I. BACKGROUND

On October 18, 2010, appellant filed a pro. per motion for return of seized property in the district court pursuant to NRS 179.335. A hearing on the motion was scheduled for November 2, 2010.

On November 1, 2010, respondent filed its opposition to appellant's motion which was not received by appellant until around November 6, 2010, thereby depriving appellant of any opportunity to file a reply prior to the November 2, 2010, hearing on his motion for return of seized property ("motion").

On November 2, 2010, the district court held a hearing on appellant's motion. Appellant was provided no notice whatsoever of the court's decision.

After several failed attempts by appellant to acquire the results of the court's decision on his motion from the district court clerk, appellant finally received a copy of the November 2, 2010, minutes from the clerk on around February 11, 2011. See EX. 1.

The print date on the November 2,

2010, minutes was February 7, 2011, and the minutes indicated that the court had denied appellant's motion. Id.

The minutes further indicated that the State, through Chief Deputy District Attorney Sandra DiGiacomo, was to prepare a subsequent order reflecting the court's decision. Id.

Because appellant had yet to receive notice of entry of order, or an order, on the court's decision, appellant attempted to file a motion for rehearing of his motion based solely on the November 2, 2010, minutes while still awaiting the district court to issue and provide him notice of entry of order, or a copy of a written order, denying his motion for return of seized property. See Ex. 2.

Though the district court clerk stamped appellant's motion for rehearing "Received" on March 7, 2011, the clerk did not file the motion pursuant to Rule 3.70 under the mistaken belief that appellant had been represented by attorney James Ruggeroli on his motion for return of seized property. Id. The clerk instead sent appellant a letter

explaining that his motion for rehearing was being forwarded to attorney James Ruggeroli for consideration as he deemed appropriate. See Ex. 3.

On May 27, 2010, appellant had received a letter from attorney James J. Ruggeroli clearly stating that he had concluded his representation of appellant following this court's denial of appellant's criminal appeal (Nev. S.Ct. No. 53848) related to district court case no. C 228752 where Mr. Ruggeroli had only been retained for appellate purposes. See Ex. 4. This was the same case in which appellant was seeking return of his seized property related to the instant appeal.

Based on Mr. Ruggeroli's May 27, 2010, letter, appellant reasonably believed Mr. Ruggeroli was no longer his counsel of record at the time of appellant's October 18, 2010, filing of his proper person motion for return of seized property.

Moreover, the district court all but confirmed to appellant that Mr. Ruggeroli was no longer appellant's counsel of

record in Case C228752 by actually having filed appellant's October 18, 2010, motion for return of seized property as a proper person document and did not reject its filing under Rule 3.70.

Mr. Ruggeroli was not even present at the November 2, 2010, hearing on the motion. See Ex. 1, Parties Present.

On April 12, 2011, in an unrelated habeas corpus proceeding in Case C228752, Mr. Ruggeroli appeared in court and advised the court that he had previously been appointed for appellate purposes and believed he had fulfilled his obligations to appellant. See Ex. 5. Thus Mr. Ruggeroli requested withdrawal as appellant's attorney of record in Case C228752 and the court granted the request, thereby officially withdrawing Mr. Ruggeroli as appellant's attorney of record in Case C228752. Id.

Still having not received notice of entry of order, or an order, from the district court regarding its November 2, 2010, denial of appellant's motion for return of seized property, appellant, following the official withdrawal of

Mr. Ruggeroli; resubmitted his motion for rehearing to the district court for filing. To appellant's knowledge the re-submitted motion for rehearing has never been filed or heard by the district court.

Finally, on June 6, 2011, after still having not received notice of entry of order, or an order, regarding the district court's November 2, 2010, denial of his motion for return of seized property, appellant thought it best to go ahead and proceed with a notice of appeal which was filed June 16, 2011.

On July 13, 2011, appellant received from the SDCC prison law library, simultaneously, the district court's Notice of Deficiency post-marked June 22, 2011, reflecting the absence of the Notice of Entry of Order; this court's Receipt for Documents postmarked June 21, 2011; and this court's Order to Show Cause... postmarked June 23, 2011. See Exhibits 6, 7, and 8.

Though SDCC prison officials stamped the envelopes of these three documents as having been received by

the SDCC Law Library on "July 12, 2011," the postmarks clearly reflect that the documents had been mailed to appellant from this court and the district court between June 21, 2011, and June 23, 2011, over three weeks prior to the time SDCC prison officials claims to have received them on July 12, 2011. *Id.* Thus the documents were extremely late reaching appellant.

The SDCC law library supervisor was unable to provide appellant an explanation as to why the legal documents were so late reaching him. Appellant has filed a prison grievance on the matter seeking an official investigation as to who was in possession of the legal documents for such a long period and as to why it took some three weeks for him to finally receive them.

Also along with the three tardy documents on July 13, 2011, appellant received this court's Order Dismissing Appeal ("ODA") postmarked July 8, 2011. See EX. 9. The court found it lacked jurisdiction to consider appellant's appeal because it was untimely filed. See ODA at 1.

II. ARGUMENT

DUE TO CIRCUMSTANCES BEYOND HIS CONTROL, APPELLANT WAS NOT GIVEN AN OPPORTUNITY TO RESPOND TO THIS COURT'S ORDER TO SHOW CAUSE PRIOR TO DISMISSAL OF APPELLANT'S APPEAL

On June 23, 2011, this court issued its Order To Show Cause... within 20 days as to why this appeal should not be dismissed for lack of jurisdiction. Under the mistaken belief that attorney James Ruggieri was still appellant's counsel of record, the court directed the order to Mr. Ruggieri rather than to appellant who was actually proceeding on appeal of the denial of his motion for return of seized property in proper person.

In fact, the record shows that Mr. Ruggieri was officially withdrawn as appellant's counsel of record on April 12, 2011. See Ex. 5.

While this court did in fact mail appellant a timely copy of its Order To Show Cause... on around June 23, 2011,

according to the postmark on the mailing envelope, SDCC prison officials stamped the envelope containing the Order "Received July 12, 2011," and did not provide the Order to appellant until July 13, 2011, over three weeks after it was mailed by the court. See Ex. 8.

Due to the above circumstances, appellant was precluded from responding to the court's Order To Show Cause... prior to the court's dismissal of appellant's appeal on July 8, 2011, just 15 days after the court's 20-day Order To Show Cause of June 23, 2011. The ODA was also received by appellant on July 13, 2011. See Ex. 9.

It is a mystery to appellant as to why this court decided to dismiss his appeal within just 15 days of its 20-day Order To Show Cause..., but appellant himself, not Mr. Ruggieri, should have been provided an opportunity to respond to the order within the 20 days before dismissal of his appeal. The above circumstances deprived him of that opportunity. Thus he should be provided such an opportunity at this time.

As the district court's Notice of Deficiency reflects, appellant has never been provided Notice of Entry of Order regarding the district court's November 2, 2010, denial of appellant's motion for return of seized property, nor has appellant received a copy of any actual order. See Ex. 6. To the extent that such a notice/order exists in the district court record, the time for filing a notice of appeal should not commence until the district court provides appellant with such notice/order in this case. Lemmond v. State, 954 P.2d 1179 (Nev. 1998).

Even this court's very own Order To Show Cause... and Order Dismissing Appeal do not reflect the actual date of any written order by the district court denying appellant's motion for return of seized property on November 2, 2010. In the absence of such a written order, the district court technically retains jurisdiction in this matter, and jurisdiction over this appeal cannot yet be conferred on this court. See Bradley v. State, 109 Nev. 1090 (1993).

Moreover, it cannot be assumed that the district court intended for the November 2, 2010, minutes to constitute an order on the denial of appellant's motion for return of seized property in this case. The court clearly instructed the state to prepare a written order of the court's decision. See Ex. 1.

III. CONCLUSION

Based on the foregoing, this court should grant appellant's petition for rehearing, re-instate appellant's appeal, order the district court to provide appellant and this court a copy of a written Notice of Entry of Order and Order denying appellant's motion for return of seized property within 30 days, find that appellant's notice of appeal was timely filed, and proceed to decide appellant's appeal on the merits.

Dated this 25 day of July, 2011.

By: *Robert Holmes III*
Robert Holmes, III
#1034184
Appellant, Pro Per

CERTIFICATE OF SERVICE

I, Robert Holmes, III, hereby certify
that on this day of July, 2011, I
mailed a true and correct copy of the
foregoing PETITION FOR REHEARING BY
PANEL to the below:

Sandra K. DiGiacomo, Chief DDA
Clark County Dist. Atty's Off.
200 Lewis Ave.

Clark County, NV

89155

Counsel for Respondents

Respectfully Submitted,

By: *Robert Holmes III*

Robert Holmes, III

#1034184

P.O. Box 208

Indian Springs, NV

89070

Appellant, Pro Per

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Felony/Gross
Misdemeanor**

COURT MINUTES

November 02, 2010

06C228752-4

The State of Nevada vs Robert Holmes

November 02, 2010

9:00 AM

Motion

PARTIES

PRESENT:

DiGiacomo, Sandra
State of Nevada

Attorney
Plaintiff

JOURNAL ENTRIES

- Attorney Ruggeroli on behalf of Defense and Attorney Digiacomo on behalf of the State. Following arguments by counsel, COURT ORDERED, motion DENIED. Deft. is permitted to pursue this motion being addressed as a civil action.

Attorney Digiacomo is to prepare the order.

*please send
a statement to court*

Robert Holmes, III #1034184
P.O. Box 208 (So. Desert Corr. Ctr.)
Indian Springs, NV
89070
Defendant, Pro Per

DISTRICT COURT
CLARK COUNTY, NEVADA

ROBERT HOLMES, III,
Defendant,
vs.
THE STATE OF NEVADA,
Plaintiff

Case No. C228752
Dept. No. ~~IV~~ XX

MOTION FOR REHEARING OF MOTION
FOR RETURN OF SEIZED PROPERTY

Time of Hearing: _____

Date of Hearing: _____

COMES NOW, Robert Holmes, III, de-
fendant in the above case, hereby moves
this Honorable Court for a rehearing of
his Motion for Return of Seized Property.

This motion is brought pursuant to

EX. 2

RECEIVED

MAR 07 2011

CLERK OF THE COURT

EDCR 3.20(c) and is made and based upon the following points and authorities and all papers and pleadings on file in this case.

POINTS AND AUTHORITIES

I. BACKGROUND

On October 18, 2010, defendant ("Holmes") filed a motion for the return of property seized from his residence via two separate search warrants in this case on September 20, 2006, and November 6, 2006. See Motion For Return Of Seized Property ("Motion")

The State submitted its opposition to Holmes' motion on November 1, 2010, just one day prior to the November 2, 2010, hearing on the motion, thereby depriving Holmes of any opportunity to file a reply prior to the hearing.

To date Holmes has never received an order or notice of entry of order with respect to any decision rendered by this court on his motion.

On around February 11, 2011, after his repeated correspondence to the clerk of this court requesting the minutes from the November 2, 2010, hearing on his motion, Holmes received a copy of the minutes

indicating that his motion had been denied and that he is permitted to pursue his motion being addressed as a civil action.

In the absence of an official order and notice of entry of order denying his motion, Holmes' motion for rehearing of his motion for return of seized property is timely.

II. ARGUMENT

THE COURT OVERLOOKED THE FACT
THAT IT HAS A STATUTORY DUTY
TO ORDER THE RETURN OF THE
SEIZED PROPERTY REQUESTED
IN HOLMES' MOTION

Though all of the items referenced in Holmes' motion were seized by search warrant under the State's belief that they were all stolen, the State, in prosecuting this case, was only able to charge the following as being stolen: Viking Refrigerator, Novation Super Base Station, Novation Drum Station, Ensoniq Effects Processor, and Akai Midi Production Center. See Motion at 3-4.

None of the numerous other items seized from Holmes' residence, as referenced in his motion, were charged as having

been stolen and were not relevant to the State's prosecution and Holmes' conviction in this case.

There is no probable cause for the State to believe at this time that any of the remaining items seized from Holmes' residence are stolen, which was the basis for which the search warrants of September 20, 2006, and November 6, 2006, were is in this case.

NRS 179.105 requires this court to order the return of seized property to the person from whom it was seized when there is no probable cause for believing the existence of the grounds upon which the warrant for seizure of the property was issued. See NRS 179.105.

There is no probable cause for believing that any of the remaining items seized from Holmes' residence via the aforementioned search warrants are stolen. Nor has the State produced any evidence that any of the remaining items are stolen during the time they have been in the State's possession. The court must, therefore, by law, order the return of the remaining uncharged property seized from Holmes'

residence in this case as referenced in his motion pursuant to NRS 179.105.

III. CONCLUSION

For the foregoing reasons, Holmes requests that this Honorable Court grant the instant motion for rehearing, reverse its decision denying Holmes' motion for return of seized property, and order the State to return to Holmes all remaining, uncharged property seized from his residence as referenced in his motion for return of seized property in this case.

Dated this 28 day of February, 2011.

By: *Robert Holmes III*
Robert Holmes, III #1034184



**CLARK COUNTY COURTS
EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**



REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-0530
FAX (702) 474-2434

Steven D. Grierson
Clerk of the Court

Vacant
Assistant Clerk of the Court

ATTORNEY: James Ruggeroli

Case: C228752-4

CC DEFENDANT: Robert Holmes

Dept: 20

Attached are pleadings received by the Office of the District Court Clerk:

Pleadings: Motion for Rehearing of Motion for Return of Seized Property

Rule 3.70. Papers which May Not be Filed

Except as may be required by the provisions of NRS34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Deputy Clerk of the Court

8 Criminal Desk

EX. 3



LAW OFFICES OF
JAMES J. RUGGEROLI, P.C.
ATTORNEY AT LAW

500 South Rancho Drive
Suite 16
Las Vegas, NV 89106
Office: 702-258-2022
Fax: 702-822-2021
Email: Ruggeroli@cox.net

May 27, 2010

ROBERT HOLMES, ID#1034184
HIGH DESERT STATE PRISON
P.O. Box 650
Indian Springs, NV 89070

Dear Robert:

This letter is a follow up to our recent conversation regarding the conclusion of your appeal before the Nevada Supreme Court. As you know, the Court denied our request. I have, therefore, concluded my representation of you in that matter. However, there are some other issues that I wanted to provide you with.

First, you are aware that I have advised you to file a pro per post-conviction writ for habeas corpus. You will want to request to have an attorney appointed. Also, I wanted to clarify the issue regarding your forfeiture proceeding. Although I attempted to look into that matter for you as a professional courtesy, I never received any information back from the attorney handling that matter, and I have no other ability to help you in regard to that proceeding.

Finally, I have talked with Daimon Monroe's attorney regarding his appeal. The attorney had informed me that he did not believe any of the issues that Mr. Monroe won on in the Nevada Supreme Court would be applicable or helpful to your case. However, I have obtained a copy of the Order and Reversal of Mr. Monroe's case for you. I have also obtained a copy of the Appellate Briefs submitted by Mr. Monroe's attorney. I hope these materials will help you when you prepare the writ and go back to the district court.

I wish you the best of luck in seeking redress to your legal situation.

Sincerely,

A handwritten signature in black ink, appearing to be 'James J. Ruggeroli', written over a horizontal line.

James J. Ruggeroli, Esq.

EX. 4

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 12, 2011

06C228752-4

The State of Nevada vs Robert Holmes

April 12, 2011

9:00 AM

Defendant's Pro Per Motion For
Rehearing / Petitioner's Reply to
State's Response To Defendant's
Petition For Writ of Habeas
Corpus (Post Conviction) and
Motion To Dismiss

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Tia Everett

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Ruggeroli, James J. Attorney for Defendant
Thomson, Megan Deputy District Attorney

JOURNAL ENTRIES

- Mr. Ruggeroli advised he was previously appointed for appellant purposes; however, he believes has fulfilled his obligations and requested to withdraw as counsel. COURT ORDERED, Mr. Ruggeroli's Request GRANTED. Court stated pursuant to EDCR 2.24 the Court is permitted to deny the Defendant's Motion; however, the Court only received the first page of the Motion and is unable to determine what the Defendant is seeking; therefore, COURT FURTHER ORDERED, Motion DENIED WITHOUT PREJUDICE. State to prepare and submit an order.

CLERK'S NOTE: a copy of this minute order has been mailed to:

Robert Holmes #1034184
PO Box 208
Indian Springs, NV 89070

STEVEN D. GRIERSON, Clerk of the Court

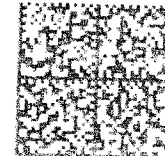
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS NV 89155-1160

RETURN SERVICE REQUESTED

*Notice
of
Deficiency*

*3 Rec'd 7-13-11
RH*

PRESORTED
FIRST CLASS

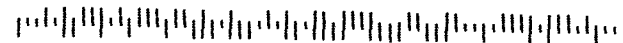


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P.O. BOX 208
INDIAN SPRINGS, NV 89070**

45 DRDFN11 89070





EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT



ROBERT HOLMES, III #1034184
P.O. BOX 208
INDIAN SPRINGS, NV 89070

DATE: June 20, 2011
CASE: C228752-4

RE CASE: STATE OF NEVADA vs. ROBERT HOLMES

NOTICE OF APPEAL FILED: June 16, 2011

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☐ Case Appeal Statement
- NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

EX-6

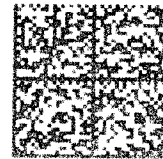
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SUPREME COURT OF NEVADA
OFFICE OF THE CLERK
201 S. Carson Street, Suite 201
Carson City, Nevada 89701


Address Service Requested

*Receipt
for
Documents 3*

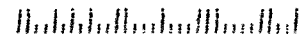
*Rec'd 7-13-11
RH*



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JUN 21 2011

EX-7
JUN 21 2011
SDCC LAW LIBRARY

ROBERT HOLMES, III
INMATE ID: 1034184
SOUTHERN DESERT CORRECTIONAL CENTER
P. O. BOX 208
INDIAN SPRINGS NV 89070



**IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

ROBERT HOLMES, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 58625
District Court Case No. C228752-4

RECEIPT FOR DOCUMENTS

TO: Robert Holmes, III
James J. Ruggeroli
Attorney General/Carson City
Clark County District Attorney
Steven Grierson, District Court Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

June 21, 2011 Appeal Filing fee waived. Criminal.

June 21, 2011 Filed Notice of Appeal/Proper Person Fast Track. Filed certified copy of proper person notice of appeal. (Fast track notice issued to trial counsel.)

June 21, 2011 Issued Notice to Request Rough Draft Transcripts. Due date: 10 days.

DATE: June 21, 2011

Tracie Lindeman, Clerk of Court

Ex. 7

1494

SUPREME COURT OF NEVADA

OFFICE OF THE CLERK

201 S. Carson Street, Suite 201

Carson City, Nevada 89701



Address Service Requested

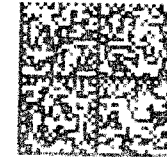
SDCC LAW LIBRARY

*Order to
show Cause...*

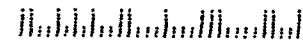
EX-00

*3 Rcvd 7-13-11
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ROBERT HOLMES, III
INMATE ID: 1034184
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INDIAN SPRINGS NV 89070



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IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT HOLMES, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58625

FILED

JUN 23 2011

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

ORDER TO SHOW CAUSE AND ORDER SUSPENDING BRIEFING

This is an appeal from a district court order denying a motion for return of seized property. This appeal is subject to the provisions of Nevada Rules of Appellate Procedure 3C.

Our initial review of this appeal reveals a jurisdictional defect. Specifically, the notice of appeal appears to be untimely. The notice of appeal was filed on June 16, 2011, well after the expiration of the 30-day appeal period prescribed by NRAP 4(b)(1). "[A]n untimely notice of appeal fails to vest jurisdiction in this court." Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Accordingly, appellant's counsel, James J. Ruggeroli, shall have 20 days from the date of this order to show cause why this appeal should not be dismissed for lack of jurisdiction. The deadlines for filing documents pursuant to NRAP 3C are suspended until further order of this court.

It is so ORDERED.

Douglas, C.J.

cc: James J. Ruggeroli
Robert Holmes, III
Attorney General/Carson City
Clark County District Attorney

EX. 8

1494

SUPREME COURT OF NEVADA

OFFICE OF THE CLERK

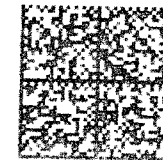
201 S. Carson Street, Suite 201

Carson City, Nevada 89701



Address Service Requested

Order Dismissing Appeal
R'wd 7-13-11
3



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INMATE ID: 1034184
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P. O. BOX 208
INDIAN SPRINGS NV 89070



EX-9

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT HOLMES, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58625

FILED

JUL 08 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Anderson*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying a motion for the return of seized property. Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge. We lack jurisdiction to consider this appeal because the notice of appeal was not timely filed, see NRAP 4(b)(1); Edwards v. State, 112 Nev. 704, 709, 918 P.2d 321, 325 (1996), therefore, we

ORDER this appeal DISMISSED.¹

Saitta, J.
Saitta

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

¹Because the record reveals that James J. Ruggeroli did not represent appellant with regard to the motion for the return of seized property, we grant Mr. Ruggeroli's motion to withdraw as counsel for appellant.

cc: Hon. Kathy A. Hardcastle, District Judge
James J. Ruggeroli
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk
Robert Holmes, III