

IN THE SUPREME COURT OF THE STATE OF NEVADA

DELARIAN WILSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60309

FILED

SEP 21 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER DENYING MOTION

This is an appeal from a district court order denying a post-conviction petition for a writ of habeas corpus. Appellant has filed a motion for a limited remand so the district court can resolve appellant's pending motion for reconsideration. Appellant is correct that the filing of the notice of appeal divested the district court of jurisdiction to grant the motion to reconsider the order that is the subject of this appeal, but appellant has not followed the proper procedure for seeking a remand to the district court in these circumstances. If the district court is inclined to grant the motion for reconsideration, it may certify its intent to do so; then, appellant may file a motion in this court, with the district court's certification attached, seeking a remand to the district court. See Foster v. Dingwall, 126 Nev. ___, ___, 228 P.3d 453, 455-56 (2010). If, however, the district court is not inclined to grant relief, it may enter an order denying the motion without a remand from this court. See id. at ___, 228 P.3d at 455.

Appellant's counsel shall have 30 days from the date of this order to comply with the procedure set forth in Dingwall, inform this court that the district court has denied the motion, or inform this court of the

status of the district court proceedings on the motion for reconsideration. The briefing of this appeal shall be suspended pending further order of this court.

It is so ORDERED.

Cherry, C.J.

cc: Hon. James M. Bixler, District Judge
Keith C. Brower
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk