

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant/Cross-Respondent,
vs.
WILLIAM LESTER WITTER,
Respondent/Cross-Appellant.

No. 73431

FILED

FEB 23 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER DISMISSING APPEAL, MODIFYING CAPTION, AND
REINSTATING BRIEFING*

This is an appeal and amended appeal from a district court order denying a postconviction petition for writ of habeas corpus and a third amended judgment of conviction, and a cross-appeal from the district court order denying the postconviction habeas petition. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Respondent/Cross-appellant William Witter has filed a motion to dismiss the State's appeal and amended appeal. The State opposes the motion, and Witter has filed a reply.

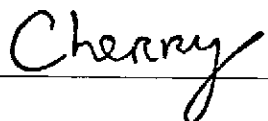
Cause appearing, Witter's motion to dismiss the State's appeal and amended appeal is granted, and the State's appeal is dismissed. See NRS 34.575(2) (the State may appeal from an order granting a postconviction petition for a writ of habeas corpus and ordering the discharge or a change in custody of the petitioner); NRS 177.015(3) (only the defendant may appeal from a final judgment or verdict in a criminal case); *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (the right to appeal is statutory; where no statute or court rule authorizes an appeal, no right to appeal exists).

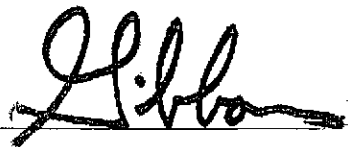
However, Witter's appeal from the district court's order denying his postconviction petition for writ of habeas corpus shall proceed. The clerk


of this court shall modify the caption in this appeal to designate William Lester Witter as the appellant, and the State of Nevada as the respondent.¹ Briefing in this appeal is reinstated as follows. Witter shall have 60 days from the date of this order to file and serve the opening brief and appendix. Thereafter, briefing shall proceed in accordance NRAP 31(a)(4).

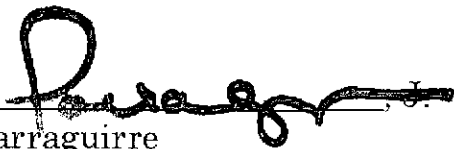
It is so ORDERED.²

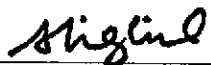
, C.J.
Douglas

, J.
Cherry

, J.
Gibbons

, J.
Hardesty

, J.
Parraguirre

, J.
Stiglich

cc: Hon. Stefany Miley, District Judge
Attorney General/Carson City
Clark County District Attorney
Federal Public Defender/Las Vegas
Eighth District Court Clerk

¹Having considered the State's motion to consolidate this appeal with the appeal in Docket No. 73444, the motion is denied. Although the identified cases will not be formally consolidated, they will nonetheless be clustered based on the related subject matter to ensure that the appeals are resolved in a consistent and efficient manner. See IOP 2(c)(2).

²The Honorable Kristina Pickering, Justice, voluntarily recused herself from participation in this matter.