

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA BOARD OF
PAROLE COMMISSIONERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75799

FILED

OCT 12 2018

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

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying the Board of Parole Commissioner's petition for modification of a sentence pursuant to NRS 176.033(2). Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

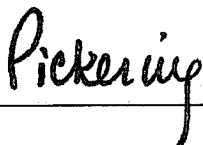
A preliminary review of this appeal revealed potential jurisdictional defects, and this court directed the Board to show cause why this appeal should be permitted to proceed. Having reviewed the Board's response, we conclude that this court lacks jurisdiction over this appeal.


First, we reject the Board's argument that it is an aggrieved party pursuant to NRS 177.015(3) as this provision applies only to a criminal defendant.

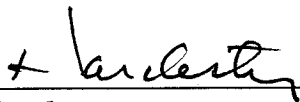
Second, although NRS 176.033(2) authorized the Board to file a petition for sentence modification on behalf of a parolee, nothing in the statute authorizes an appeal from the denial of such a petition. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (recognizing that the right to appeal is statutory and where no statute or court rule provides for an appeal, no right to appeal exists). Although we have recognized a criminal defendant's right to appeal an order denying a motion to modify sentence based on due process grounds because similar to a motion for a

new trial the relief sought is new sentencing proceedings, *see Passanisi v. State*, 108 Nev. 318, 321, 831 P.2d 1371, 1373 (1992), *overruled on other grounds by Harris v. State*, 130 Nev. 435, 329 P.3d 619 (2014), that analogy does not extend to the petition authorized by NRS 176.033. Accordingly, we

ORDER this appeal DISMISSED.¹


_____, J.
Pickering


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Connie J. Steinheimer, District Judge
Attorney General/Carson City
Attorney General/Dept. of Public Safety/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹In light of our decision, we decline to consider whether the notice of appeal was timely filed. We further deny the motion to stay appeal as moot.