

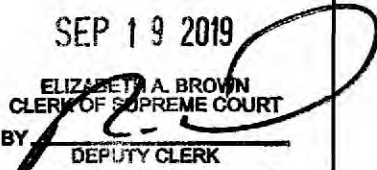
IN THE SUPREME COURT OF THE STATE OF NEVADA

TONEY ANTHONY WHITE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78483

**FILED**

SEP 19 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER REGARDING MOTION*

This is a direct appeal from a judgment of conviction entered pursuant to a guilty plea. On August 22, 2019, this court entered an order denying appellant's motion to stay the appeal and remand to the district court to enable him to file a motion for reconsideration of an order denying his motion to withdraw the guilty plea. Appellant has now filed a motion for an extension of time of 60 days to file the opening brief to permit the district court to hold a hearing on September 24, 2019, and enter a decision on the motion.

As this court has explained, "A timely notice of appeal divests the district court of jurisdiction to act and vests jurisdiction in this court." *Robertson v. State*, 109 Nev. 1086, 1089, 863 P.2d1040, 1042 (1993), *overruled on other grounds by Krauss v. State*, 116 Nev. 307, 998 P.2d 163 (2000). The district court therefore lacks jurisdiction to alter or modify its decision. The court may consider the motion and may deny it. If the district court is inclined to modify a decision from which an appeal has been taken, after jurisdiction has vested in this court, the course of action is for the district court to certify to this court its inclination to modify its decision and to request a remand. NRAP 12A, NRCp 62.1.

Appellant's motion for an extension is granted to the following extent. Appellant shall have 30 days from the date of this order to file a

motion pursuant to NRAP 12A and NRCP 62.1 or the opening brief and appendix. Failure to comply with this order may result in the imposition of sanctions.

It is so ORDERED.

 C.J.

cc: Hon. Michelle Leavitt, District Judge  
Terrence M. Jackson  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk