

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

TRAVIS BISH,

Appellant,

v.

THE JUSTICE COURT FOR  
SPARKS TOWNSHIP, THE HON.  
JESSICA LONGLEY, BY AND THROUGH  
REAL PARTY IN INTEREST  
THE STATE OF NEVADA,

Respondent.

No. 82295 Electronically Filed  
Jun 08 2021 05:00 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**MOTION TO DISMISS APPEAL**

COMES NOW, the State of Nevada, by and through counsel, and moves this Honorable Court to dismiss the above-entitled appeal filed by Appellant Travis Bish. This Motion is based on the pleadings and papers on file with this Court, and the following points and authorities.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Appellant Travis Bish (“Bish”) appeals from an order denying a pretrial petition for writ of habeas corpus, which is not a final judgment and

is not appealable. This Court lacks jurisdiction over the appeal and should enter an order dismissing this appeal.

## II. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

On September 16, 2020, the State filed a criminal complaint in Sparks Justice Court charging Bish with one count of sexual assault against a child under the age of 14. Joint Appendix (“JA”) 1-2. On September 18, 2020, a hearing was held in justice court to determine bail pursuant to *Valdez-Jimenez v. Eighth Judicial Dist. Court*, 136 Nev. 155, 460 P.3d 976 (2020). *See generally* JA 3-28. After hearing argument from the parties and testimony from the victim’s mother, the justice of the peace set Bish’s bail at \$50,000.00 bondable. *Id.* at 25.

On October 6, 2020, Bish filed an Emergency Petition for Writ of Habeas Corpus, or in the Alternative, Petition for Writ of Mandamus; and Request for Emergency Hearing with the Second Judicial District Court to challenge the bail determination made in justice court. *See id.* at 29-47 (Petition), 48-62 (Exhibits). The district court ordered the State to respond to the Petition. *Id.* at 63-64. On October 19, 2020, the State filed its response defending the justice court’s bail determination. *Id.* at 66-78. On October 21, 2020, Bish filed a Reply in support of his Petition. *Id.* at 79-83.

On December 3, 2020, the district court issued an order denying Bish’s Petition. *Id.* at 87-92. On December 30, 2020, Bish filed a notice of

appeal. *Id.* at 93-94. The matter is currently pending in district court, as Bish awaits sentencing. *See* Respondent's Appendix to Motion to Dismiss 1-2.

### III. ARGUMENT

Bish first contends that this Court has jurisdiction which rests in Rule 4(b) of the Nevada Rules of Appellate Procedure and NRS 177.015(3) concerning final judgments. However, “[a]n appeal in a criminal case lies from the final judgment of the district court, not from an order finally resolving an issue in a criminal case.” *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (citing, among others, NRS 177.015(3)). Bish appealed an interlocutory pretrial order, not a judgment of conviction; thus, jurisdiction does not rest in NRS 177.015(3). *See Sandstrom v. Dist. Ct.*, 121 Nev. 657, 660, 119 P.3d 1250, 1253 (2005) (explaining that NRS 177.015(3) “applies only to final judgments of conviction or verdicts in criminal cases”). Similarly, Bish’s right to appeal does not rest in NRAP 4(b) because the plain language of the rule does not confer jurisdiction over an order denying a pretrial petition for writ of habeas corpus or writ of mandamus. *See* NRAP 4(b).

Moreover, Bish styled his Petition below as a Petition for Writ of Habeas Corpus and relied, in part, on Chapter 34 of the Nevada Revised Statutes to support his argument for relief. *See* JA 29, 36. This Court has

explicitly held that “[n]o appeal lies from an order of the district court denying a pretrial petition for writ of habeas corpus.” *Castillo*, 10 Nev. at 352, 792 P.2d at 1135. Bish attempts to circumvent this holding by pointing to NRS 2.090(2) as a basis for jurisdiction. Bish’s reliance on NRS 2.090(2) is misplaced.

Bish contends that NRS 2.090(2) provides the Supreme Court jurisdiction to review *any* appeal from an order granting or denying mandamus. However, NRS 2.090(2) only provides jurisdiction to review an order granting or denying mandamus if it is provided for by other statutes. NRS 2.090 (“The Supreme Court has jurisdiction to review upon appeal... (2)... an order granting or refusing to grant an injunction or mandamus in the *case provided for by law*.”). Bish does not cite another statute permitting a pretrial appeal of a bail determination in justice court and the State is aware of none. As such, Bish does not have a right to appeal the district court’s order denying his pretrial writ and his appeal should be dismissed for lack of jurisdiction. *Castillo*, 106 Nev. at 352, 792 P.2d at 1135 (“[T]he right to appeal is statutory; where no statutory authority to appeal is granted, no right to appeal exists.”).

#### IV. CONCLUSION

Bish has not appealed from a final judgment and has not provided any statutory authority to support this Court’s jurisdiction to hear an

appeal from a district court order denying a pretrial writ of habeas corpus or pretrial writ of mandamus. This appeal should be dismissed.

DATED: June 8, 2021.

CHRISTOPHER J. HICKS  
DISTRICT ATTORNEY

By: MARILEE CATE  
Appellate Deputy

## **CERTIFICATE OF COMPLIANCE**

1. I hereby certify that this motion complies with NRAP 27, as well as the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2013 in Georgia 14.

2. I further certify that this brief complies with the page limitations of NRAP 27(d)(2) because it does not exceed 10 pages.

3. Finally, I hereby certify that I have read this motion, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this motion complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the motion regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in

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the event that the accompanying motion is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED: June 8, 2021.

CHRISTOPHER J. HICKS  
Washoe County District Attorney

BY: MARILEE CATE  
Appellate Deputy  
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**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on June 8, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Kathryn Reynolds  
Deputy Public Defender

Tatyana Kazantseva  
Washoe County District Attorney's Office