

Please submit these documents "Petition for Exoneration and Public Integrity Unit law" to the ACAJ members. .

Dear ACAJ Members;

I have attached these additional documents for consideration for new legislation to be created. I believe that with the additional information that I have provided to you an Exoneration Bill and or Public Integrity Unit can be created and give those who have been wrongfully convicted a chance at their freedom.

Thank You,

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THE STATE OF NEVADA

No. 58789

**FILED**

NOV 28 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

NOLAN EDWARD KLEIN,  
Appellants,  
vs.  
THE STATE OF NEVADA,  
Respondent.

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying a petition for exoneration. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

We previously noted a potential jurisdictional defect, that no statute or court rule appears to provide for an appeal from the district court's order, and directed appellant<sup>1</sup> to show cause why this appeal should not be dismissed. See Castillo v. State, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists). In response, appellant asserts that this is an appeal from a final judgment, relying on NRAP 3A(b). Appellant's reliance on NRAP 3A(b) is misplaced; that rule governs appeals in civil actions and appellant's petition for exoneration was filed in a criminal action. Here, the final appealable judgment in the underlying criminal case was the judgment of conviction. See NRS

<sup>1</sup>We note that appellant passed away while incarcerated and that the petition for exoneration was filed by his sister.

11-36370


177.015(3) (“The defendant only may appeal from a final judgment or verdict in a criminal case.”); 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”). Alternatively, appellant suggests that as the highest court in Nevada, we should recognize a petition for exoneration even where the defendant is deceased and, presumably, recognize that an order denying such a petition is appealable. We cannot do that. Contrary to appellant’s suggestion that “[t]his Court is the only body in the State of Nevada that can set the course for petitions for exoneration after death,” it is for the Legislature to create a cause of action or remedy and provide for an appeal. See Halverson v. Hardcastle, 123 Nev. 245, 260-61, 163 P.3d 428, 440 (2007) (legislative power “refers to the broad authority to enact, amend, and repeal laws” and judicial branch cannot exercise legislative power); Castillo, 106 Nev. at 352, 792 P.2d at 1135 (right to appeal is statutory). See generally Samuel Wiseman, Innocence after Death, 60 Case W. Res. L. Rev. 687, 735, 741 (2010) (suggesting that “legislatures should create an avenue for judicial posthumous exoneration proceedings” and that, among the several possible means of addressing posthumous exonerations, “perhaps” the most “preferable[ ] means of ensuring that courts may consider posthumous exoneration claims is for the legislature to create a new cause of action”). Because no statute or court rule provides for an



appeal in this matter, we lack jurisdiction. Accordingly, we  
ORDER this appeal DISMISSED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Brent T. Adams, District Judge  
Hager & Hearne  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk