

IN THE SUPREME COURT OF THE STATE OF NEVADA

SCOTT DEARVE RIDDEL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42950

FILED

SEP 07 2004

ORDER DISMISSING APPEAL

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Rubado*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of open or gross lewdness and one count of failure to register as a sex offender. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge.

The judgment of conviction was entered by the district court on January 21, 2004. The notice of appeal was filed on March 8, 2004, after the thirty-day appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court.¹

Because appellant apparently signed the notice of appeal before the expiration of the appeal period, it appeared possible that the notice of appeal was delivered to prison officials within the thirty (30) day period, and might therefore be timely.²


On June 28, 2002, this court ordered appellant's counsel to obtain and transmit copies of any available prison records indicating the actual date upon which appellant delivered his notice of appeal to a prison

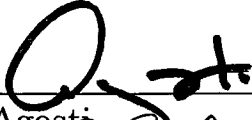
¹See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

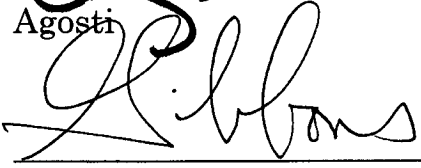
²Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992) (notice of appeal shall be deemed filed on the date it is delivered to a prison official).

official. On August 25, 2004, counsel filed a response. Attached to the response is a copy of the prison notice of appeal log. There is no entry showing that appellant delivered his notice of appeal to prison officials before the expiration of the thirty-day appeal period. We therefore conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Nancy M. Saitta, District Judge
Donald J. Green
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk