

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES ROBERT PURPURA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43420

FILED

JUL 23 2004

ORDER DISMISSING APPEAL

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

This is an appeal from an amended judgment of conviction, pursuant to a guilty plea, of one count of uttering or possessing a forged instrument. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge.

The amended judgment of conviction was entered by the district court on April 14, 2004. The notice of appeal was filed on June 3, 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

Accordingly, on June 29, 2004, this court ordered appellant's counsel to show cause why this appeal should not be dismissed for lack of jurisdiction. On July 12, 2004, counsel filed a response to the order to show cause.

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

In the response, counsel informs this court that, prior to sentencing, he filed a motion to dismiss the charges based on a violation of the Interstate Agreement on Detainers Act. At sentencing, the district court denied the motion and then sentenced appellant. The judgment of conviction subsequently entered by the district court made no mention of the motion to dismiss, and the amended judgment of conviction also made not mention of the motion.


On July 9, 2004, the district court entered an order denying the motion to dismiss. Counsel for appellant therefore argues that the notice of appeal should be deemed timely pursuant to NRAP 4(b).


NRAP 4(b) requires that a notice of appeal "be filed in the district court within thirty (30) days after the entry of the judgment or order appealed from." The rule goes on to state that "[a] notice of appeal filed after the announcement of a decision sentence or order but before entry of the judgment or order shall be treated as filed after such entry and on the day thereof."


As an initial matter, this court notes that the notice of appeal states that the appeal is from the amended judgment of conviction. The notice of appeal was filed in the district court 50 days after the entry of the

amended judgment of conviction and was therefore not timely.² 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. Andrew J. Puccinelli, District Judge
David D. Loreman
Attorney General Brian Sandoval/Carson City
Elko County District Attorney
Elko County Clerk

²To the extent that appellant argues that this appeal is actually from the district court's denial of the motion to dismiss, we conclude that any claim of error with regard to the denial of the motion to dismiss could have been raised in a timely appeal from the judgment of conviction.