

IN THE SUPREME COURT OF THE STATE OF NEVADA

DALE MATTHEW DODD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43519

FILED

AUG 26 2004

ORDER DISMISSING APPEAL

JANE LITE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of uttering a forged instrument. Second Judicial District Court, Washoe County; Peter I. Breen, Judge.

The judgment was entered by the district court on March 30, 2004. The notice of appeal was filed on May 14, 2004, after the thirty-day appeal period prescribed by NRAP 4(b).¹ An untimely notice of appeal fails to vest jurisdiction in this court.² Because appellant dated 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.

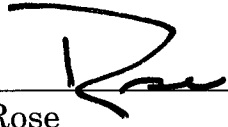
Accordingly, on July 6, 2004, this court ordered appellant's counsel to investigate on behalf of appellant whether any documents in the custody of prison officials, such as a prison log, would verify whether appellant submitted his notice of appeal to a prison official for mailing prior to the expiration of the thirty-day appeal period. On July 27, 2004,


¹See Kellogg 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).

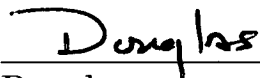
²See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

counsel filed a response in which he informs this court that there is no entry in the prison log for appellant's notice of appeal. We conclude that the notice of appeal was untimely. We therefore conclude that we lack jurisdiction to entertain this appeal and we

ORDER this appeal DISMISSED.³


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Peter I. Breen, District Judge
David D. Spitzer
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

³We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted.