

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN DION SIMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43834

FILED

SEP 17 2004

ORDER DISMISSING APPEAL

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a presentence motion to withdraw a guilty plea and motion to dismiss counsel and an order of the district court denying a post-conviction motion to withdraw a guilty plea. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.

This court's review of this appeal reveals several jurisdictional defects. The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists.¹ No statute or court rule provides for an independent appeal from a decision of the district court denying a presentence motion to withdraw a guilty plea or motion to dismiss counsel.² Thus, this court lacks jurisdiction to consider the appeal from the order denying the presentence motion to withdraw a guilty plea and motion to dismiss counsel.


Although an order denying a post-conviction motion to withdraw a guilty plea is appealable, appellant's notice of appeal was untimely filed. The district court entered the order denying the motion to


¹Castillo v. State, 106 Nev. 349, 792 P.2d 1133 (1990).

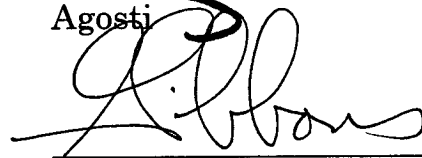
²NRS 177.015(3); NRS 177.045.

withdraw a guilty plea on April 16, 2004. The notice of appeal was not filed until August 23, 2004, after the expiration of the appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court.³ Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Joseph T. Bonaventure, District Judge
Brian Dion Sims
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

³See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).