

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO M. A., M.A., R.A., AND
BABY GIRL P.,

No. 43875

T. PERSING,

Appellant,

vs.

THE STATE OF NEVADA DIVISION
OF CHILD AND FAMILY SERVICES,
DEPARTMENT OF HUMAN
RESOURCES,

Respondent.

FILED

FEB 22 2005

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

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court entered July 20, 2004, terminating appellant's parental rights. Eighth Judicial District Court, Clark County; Gerald W. Hardcastle.

On November 8, 2004, this court entered an order directing appellant to show cause why her appeal should not be dismissed for lack of jurisdiction.¹ Specifically, we noted that notice of entry of the order terminating parental rights was served on appellant by mail on July 23, 2004. Consequently, the notice of appeal was due to be filed on or before August 25, 2004. See NRAP 4(a) ("a notice of appeal must be filed . . . no later than thirty (30) days after the date of service of written notice of the entry of the judgment or order appealed from"); and NRAP 26(c) (3 days

¹The order also granted respondent 15 days after service of appellant's response to file a reply. To date, respondent has failed to file a reply.

are added if service of a document was by mail). We noted that appellant's notice of appeal was filed on August 26, 2004 – 34 days after service of notice of entry of order – and thus appeared untimely.

On December 10, 2004, appellant filed a response to our order conceding that her notice of appeal was untimely filed because the “due date for the Notice of Appeal was . . . incorrectly calendared.” Appellant, however, requests that she be allowed to join in Docket No. 43730 as an appellant pursuant to NRAP 3(b). Appellant argues that “[t]he biological father . . . timely filed a Notice of Appeal [in Docket No. 43730] . . . such that this Court does have jurisdiction to consider the merits” of the district court order terminating parental rights.

NRAP 3(b) provides that two or more persons who are entitled to appeal from a judgment or order of the district court may file a joint notice of appeal, or “may join in appeal after filing separate *timely* notices of appeal, and they may thereafter proceed on appeal as a single appellant.” (Emphasis added.) While the notice of appeal of appellant K. A. Adams was timely filed from the order terminating parental rights (Docket No. 43730), the notice of appeal of appellant T. Persing was not timely filed (Docket No. 43875). Accordingly, we deny appellant's request to join as an appellant in Docket No. 43730. Further, as appellant's notice of appeal was not timely filed, we lack jurisdiction over this appeal. See NRAP 3(a) (“failure of an appellant to take any step *other than the timely filing of a notice of appeal* does not affect the validity of the appeal”) (emphasis added); NRAP 26(b) (“the court may not enlarge the time for filing a notice of appeal”); and Zugel v. Miller, 99 Nev. 100,

659 P.2d 296 (1983) (filing a timely notice of appeal is jurisdictional and an untimely appeal may not be considered). Accordingly, we

ORDER this appeal dismissed.

Becker, C.J.
Becker

Rose, J.
Rose

Hardesty, J.
Hardesty

cc: Hon. Gerald W. Hardcastle, District Judge,
Family Court Division
Special Public Defender David M. Schieck
Attorney General Brian Sandoval/Las Vegas
Clark County Clerk