

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE COLATO A/K/A JOSE GARCIA
COLATO A/K/A JOSE ROBERTO
COLATO, JR. A/K/A JOSE ROBERT
COLATO, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43876

FILED

NOV 04 2004

JANETTE M BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted murder, and one count of trafficking in a controlled substance. Second Judicial District Court, Washoe County; James W. Hardesty, Judge.

This court's preliminary review of this appeal revealed a jurisdictional defect. Specifically, the district court entered the judgment of conviction on July 27, 2004. Appellant did not file the notice of appeal, however, until August 27, 2004, one day after the expiration of 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 September 20, 2004, this court ordered appellant's counsel to show cause why this appeal should not be dismissed for lack of jurisdiction. On October 13, 2004, appellant's counsel Charles C. Diaz filed a response to this court's order. In the response, Diaz

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

concedes that the notice of appeal was untimely. 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. James W. Hardesty, District Judge
Charles C. Diaz
Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk