

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD WELDON EVANS, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44563

FILED

MAR 22 2005

ORDER DISMISSING APPEAL

JANETTE M. GLOOM
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 eluding a police officer, and one count of unlawful taking of a motor vehicle. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

This court's preliminary review of this appeal revealed a potential jurisdictional defect. Specifically, the judgment of conviction was entered by the district court on December 14, 2004. The notice of appeal was filed on January 20, 2005, 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

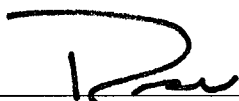
Accordingly, on February 2, 2005, this court ordered appellant's counsel to show cause why this appeal should not be dismissed for lack of jurisdiction. On February 23, 2005, counsel filed a response in

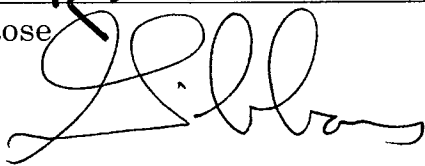
¹Appellant apparently signed the notice of appeal before the expiration of the appeal period. It therefore appeared possible that the notice of appeal was delivered to prison officials within the thirty (30) day period, and may therefore be timely. Kellogg v. Journal Communications, 108 Nev. 474, 835 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).

which he informs this court that according to the law library supervisor at the Northern Nevada Correctional Center, there is no entry in the log book, nor are there any "brass slips" showing that appellant mailed anything. Because appellant has been unable to provide evidence that he delivered the notice of appeal to prison officials within the 30-day period, we conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk