

IN THE SUPREME COURT OF THE STATE OF NEVADA

HECTOR CASTANEDA-RAMIREZ  
A/K/A HECTOR CASTENEDA-  
RAMIREZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44805

**FILED**

JUL 06 2005

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

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of trafficking in a controlled substance, and one count of conspiracy to sell a controlled substance.. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

This court's preliminary review of this appeal revealed a jurisdictional defect. Specifically, the judgment was entered by the district court on January 20, 2005. The notice of appeal was filed on February 28, 2005, after the thirty-day appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court.<sup>1</sup> It appeared possible, however, that the notice of appeal was delivered to prison officials within the thirty (30) day period, and might therefore be timely.<sup>2</sup>


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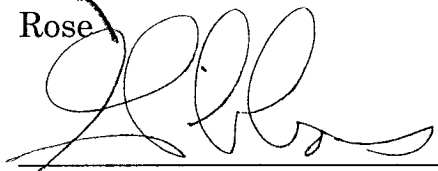
<sup>1</sup>See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

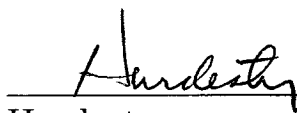
<sup>2</sup>See Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992) (notice of appeal shall be deemed filed on the date it is delivered to a prison official).

Accordingly, appellant's counsel was ordered to show cause why this appeal should not be dismissed for lack of jurisdiction. On June 1, 2005, counsel filed a response to this court's order to show cause. In the response, counsel informs this court that there is no documentation existing which shows that appellant delivered his notice of appeal to prison officials before the expiration of the 30-day appeal period. We therefore conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Janet J. Berry, District Judge  
Michael V. Roth  
Charles B. Woodman  
Attorney General Brian Sandoval/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk