

IN THE SUPREME COURT OF THE STATE OF NEVADA

MANUEL GONZALEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45053

FILED

DEC 12 2005

ORDER DISMISSING APPEAL

JANET M. BLOOM
CLERK OF SUPREME COURT
By *J. R. [Signature]*
CLERK OF SUPREME COURT

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of conspiracy to commit robbery and one count of robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

The judgment of conviction was entered by the district court on January 8, 2005. The notice of appeal was filed on April 7, 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 Because appellant dated the notice of appeal before the expiration of the appeal period, it appeared possible that the notice of appeal was delivered to prison officials within the thirty (30) day period, and might therefore be timely.


Accordingly, on May 11, 2005, this court ordered appellant's counsel to investigate on behalf of appellant whether any documents in the custody of prison officials, such as a prison log, would verify whether

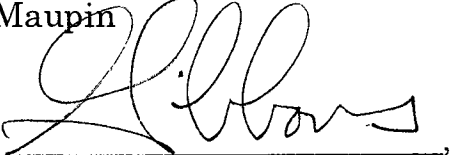
¹See Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992) (notice of appeal shall be deemed filed on the date it is delivered to a prison official).


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

appellant submitted his notice of appeal to a prison official for mailing prior to the expiration of the thirty-day appeal period. Because appellant's counsel was unable to obtain copies of the prison log from prison officials, this court ordered the attorney general to assist appellant's counsel. On November 2, 2005, the attorney general filed a response with copies of the prison log attached. There is no entry in the prison log for appellant's notice of appeal, and we conclude 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.

Maupin

_____ J.
Gibbons


_____ J.
Hardesty

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Kocka & Bolton
Attorney General George Chanos/Las Vegas
Clark County District Attorney David J. Roger
Clark County Clerk