

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE LITVAK  
TRUST DATED MARCH 12, 2001.

PHYLLIS MAGON LITVAK,  
Appellant,  
vs.  
DEBI RODDEN AND STEVEN LITVAK,  
Respondents.

No. 45152

**FILED**

JUL 06 2005

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

ORDER DISMISSING APPEAL

This is an appeal from an order entered in an action concerning an inter vivos trust. Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge. When a preliminary review of the documents before this court revealed a potential jurisdictional defect, we directed appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. It appeared that appellant's notice of appeal was untimely filed, and failed to vest jurisdiction in this court.


On March 21, 2005, the district court entered an order affirming and adopting the probate commissioner's report and recommendations, directing appellant to return income and principal that she removed from the trust, and directing appellant to pay respondents' attorney fees and costs. On March 21, 2005, notice of the order's entry was personally served on appellant's counsel. Accordingly, appellant's notice of appeal from the order was due no later than April 20, 2005.<sup>1</sup>

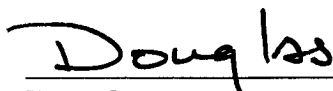
<sup>1</sup>See NRAP 4(a)(1) (providing that a notice of appeal is due no later than thirty days after the date that written notice of the order's entry is served); see also NRAP 26(c). We deny respondents' July 5, 2005 motion to dismiss as moot.

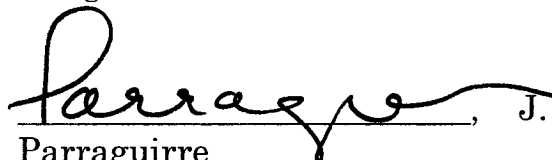
Appellant did not file the notice of appeal, however, until April 28, 2005. An untimely notice of appeal fails to vest jurisdiction in this court.

We have considered appellant's response, respondents' reply, and appellant's response to the reply.<sup>2</sup> We reject appellant's contention that service was not properly made. NRCP 5(b)(2)(ii) provides that service may be made by delivering a copy to the attorney by leaving it at the attorney's office with a clerk or other person in charge, or otherwise leaving it in a conspicuous place in the office. We further reject appellant's argument that the order was not a final, appealable judgment or was not properly certified under NRCP 54(b). We conclude that the order is independently appealable under NRS 164.015. Accordingly, appellant's notice of appeal was untimely, and we lack jurisdiction over this appeal. We hereby dismiss this appeal.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Parraguirre

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<sup>2</sup>We grant appellant's June 27, 2005 motion to file a response to respondents' reply, and direct the clerk of this court to file the response provisionally received on June 27, 2005.

cc: Hon. Kathy A. Hardcastle, District Judge  
Howard Roitman, Settlement Judge  
Herbert Sachs  
Lionel Sawyer & Collins/Las Vegas  
Clark County Clerk