

IN THE SUPREME COURT OF THE STATE OF NEVADA

MONTRAIL DELVONTA SMITH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45867

FILED

SEP 26 2005

ORDER DISMISSING APPEAL

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

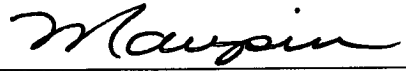
This is a proper person appeal from a judgment of conviction. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.


This court's preliminary review of this appeal reveals a jurisdictional defect. Specifically, the district court entered the judgment of conviction on May 24, 2005. Appellant did not file the notice of appeal, however, until August 25, 2005, well after the expiration of the thirty-day appeal period prescribed by NRAP 4(b). Nonetheless, appellant requests this court to entertain the appeal. This court lacks jurisdiction to entertain an untimely appeal.¹ A claim that appellant was deprived of a direct appeal without his consent should be asserted in the district court in the first instance in a post-conviction petition for a writ of habeas

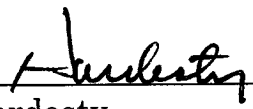
¹Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

corpus.² Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Joseph T. Bonaventure, District Judge
Montrail Delvonta Smith
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

²Id.