

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM CLYDE HINKLE, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45996

FILED

JAN 12 2006

ORDER DISMISSING APPEAL

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of felony driving under the influence. Fifth Judicial District Court, Nye County; John P. Davis, Judge.

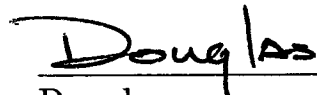
The judgment was entered by the district court on August 8, 2005. The notice of appeal was filed on September 15, 2005, after the thirty-day appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court.¹ Because it appeared possible that the notice of appeal was delivered to prison officials within the thirty (30) day period, and might therefore be timely, 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 appellant submitted his notice of appeal to a prison official for mailing prior to the expiration of the thirty-day appeal period.²


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


²See 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).

On December 12, 2005, counsel filed a response in which he informs this court that there are no entries in the prison log for appellant's notice of appeal. We therefore conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.³


_____, J.
Douglas


_____, J.
Becker


_____, J.
Parraguirre

cc: Hon. John P. Davis, District Judge
Robert W. Weatherford
Attorney General George Chanos/Carson City
Nye County District Attorney/Tonopah
Nye County Clerk
William Clyde Hinkle, Jr.

³Because appellant is represented by counsel in this matter, we decline to grant appellant permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, the clerk of this court shall return to appellant unfiled all proper person documents appellant has submitted to this court in this matter.