

IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL ANTHONY RICE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46317

FILED

JAN 19 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 guilty plea, of one count of battery causing substantial bodily harm, four counts of being an ex-felon in possession of a firearm, and one count of possession of a controlled substance. Sixth Judicial District Court, Humboldt County; Richard Wagner, Judge.


This court's preliminary review of this appeal revealed a jurisdictional defect. Specifically, the judgment of conviction was entered by the district court on August 25, 2005, but the notice of appeal was not filed until November 15, 2005, after the thirty-day appeal period prescribed by NRAP 4(b).

Accordingly, on December 7, 2005, this court ordered counsel for appellant to show cause why this appeal should not be dismissed. On December 23, 2005, counsel filed a response, in which he informs this court that the "parties agreed that for appellate purposes the service date of the Judgment of Conviction would be November 8, 2005."

NRAP 4(b)(1) requires that the notice of appeal in a criminal matter be filed in the district court within 30 days after the entry of the judgment being appealed from. NRAP 4(b)(1) specifically provides that the time for filing the notice of appeal runs from the entry of the

judgment, not from service of the judgment.¹ Moreover, this court has held that jurisdiction cannot be conferred upon this court "by the consent or stipulation of the parties or their counsel."²An untimely notice of appeal fails to vest jurisdiction in this court.³ We conclude that the notice of appeal was untimely, and that we lack jurisdiction to entertain this appeal. Accordingly, we

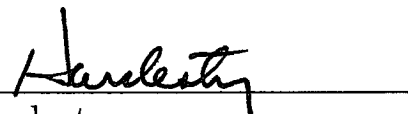
ORDER this appeal DISMISSED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Richard Wagner, District Judge
Marc P. Picker
Attorney General George Chanos/Carson City
Humboldt County District Attorney
Humboldt County Clerk

¹Cf. NRAP 4(a)(1) (requiring that the notice of appeal in a civil case must be filed within 30 days after service of written notice of the entry of the judgment or order appealed from); NRS 34.575(1) (requiring that the notice of appeal from an order denying a post-conviction petition for a writ of habeas corpus be filed "within 30 days after service by the court of written notice of entry of the order").

²Scherer v. State, 89 Nev. 372, 374, 513 P.2d 1232, 1233-34 (1973).

³See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).