

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL T. WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47769

FILED

NOV 09 2006

ORDER DISMISSING APPEAL

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

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

This court's preliminary review of this appeal revealed a potential jurisdictional defect. Specifically, the district court entered the order denying appellant's petition on June 16, 2006, and the clerk of the district court served notice of entry of that order on June 19, 2006. Appellant's notice of appeal was due on July 24, 2006.¹ Appellant's notice of appeal, however, was not filed in the district court until July 26, 2006, two days beyond the relevant appeal period. An untimely notice of appeal fails to vest jurisdiction in this court.²

Appellant signed his notice of appeal on July 14, 2006. Because a notice of appeal properly delivered to prison officials in a timely fashion is sufficient to invoke this court's jurisdiction, this court directed the attorney general to obtain and transmit to this court a copy of any

¹See NRS 34.575; NRAP 26(a), (c).

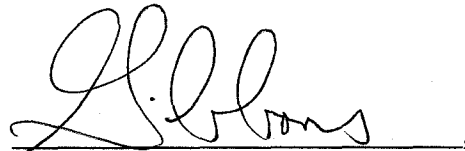
²Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

documents in the prison indicating the date upon which appellant delivered his notice of appeal to prison officials.³

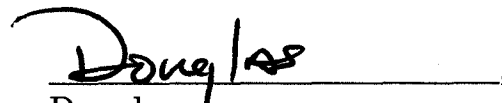
The attorney general filed a response to this court's order. The attorney general indicates that appellant did not use the notice of appeal log during the time in question.

This court's decision in Kellogg contemplates that the date of delivery of the notice of appeal to a prison official will be determined by the date recorded in the prison notice of appeal log.⁴ Here, there is no record of the date appellant delivered his notice of appeal to a prison official pursuant to Kellogg. Therefore, the July 26, 2006 filing date of the notice of appeal in the district court controls. Because appellant's notice of appeal was untimely filed, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Gibbons


_____, J.
Maupin


_____, J.
Douglas

³See Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992).

⁴Id. at 476-77, 835 P.2d at 13.

cc: Hon. Valorie Vega, District Judge
Michael T. Williams
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk