

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER CYR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47774

FILED

NOV 07 2006

ORDER DISMISSING APPEAL

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

This is a proper person appeal from an order of the district court denying a motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

This court's preliminary review of this appeal revealed a potential jurisdictional defect. Specifically, the district court entered the order denying appellant's motion on June 9, 2006. Appellant's notice of appeal was due on July 10, 2006.¹ Appellant's notice of appeal, however, was not filed in the district court until July 12, 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 10, 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 NRAP 4(b); NRAP 26(a); Edwards v. State, 112 Nev. 704, 918 P.2d 321 (1996).


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

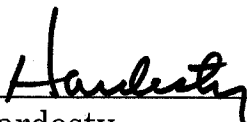
documents in the prison indicating the date upon which appellant delivered his notice of appeal to prison officials.³


The attorney general filed a response to this court's order. The attorney general indicates that appellant did not use either the notice of appeal log or the outgoing legal mail 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 mail 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 12, 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.
Becker


_____, J.
Hardesty


_____, J.
Parraguirre

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

⁴Id. at 476-77, 835 P.2d at 13.

cc: Hon. Donald M. Mosley, District Judge
Christopher Cyr
Attorney General George Chanos/Carson City
Attorney General George Chanos/Las Vegas
Clark County District Attorney David J. Roger
Clark County Clerk