

IN THE SUPREME COURT OF THE STATE OF NEVADA

SPENCER STEVEN ORE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47826

FILED

DEC 12 2006

ORDER DISMISSING APPEAL

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of driving under the influence resulting in death or substantial bodily harm. Ninth Judicial District Court, Douglas County; David R. Gamble, Judge.

The judgment of conviction was entered by the district court on June 14, 2006. The notice of appeal was filed on July 31, 2006, after the thirty-day appeal period prescribed by NRAP 4(b).¹ An untimely notice of appeal fails to vest jurisdiction in this court.² Accordingly, this court ordered appellant's counsel Terri Steik Roeser to show cause why this appeal should not be dismissed for lack of jurisdiction.³

¹This court notes that appellant apparently signed the notice of appeal before the expiration of the appeal period. It therefore appeared possible that the notice of appeal was delivered to prison officials within the thirty (30) day period, and might therefore be timely. 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).

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

³On September 27, 2006, and November 7, 2006, Roeser filed notices in this court stating that appellant is now represented by Derrick Lopez.
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Because Roeser was unable to obtain copies of the prison mail logs, this court ordered the attorney general to obtain copies of the logs to determine whether appellant had delivered his notice of appeal to prison officials within the 30 day period. On November 27, 2006, the attorney general filed a response with copies of the prison logs attached.⁴ Our review of the logs reveals that there are no entries for appellant. We therefore conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.

Becker, J.
Becker

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

... continued

This court construes the notices as motions to withdraw. Cause appearing, the motions are granted.

⁴On November 13, 2006, the attorney general filed a motion for an extension of time in which to file the response. Because the response was timely filed, the motion is denied as moot.

cc: Hon. David R. Gamble, District Judge
Roeser & Roeser
Derrick Lopez
Attorney General George Chanos/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk