

IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICK F. FUNDERBURKE A/K/A  
PATRICK FUNDERBURK,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 48081

**FILED**

**NOV 08 2006**

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

ORDER DISMISSING APPEAL

This is a proper person appeal from an order of the district court denying appellant's proper person motion to modify his sentence.<sup>1</sup> Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

This court's preliminary review of this appeal reveals a jurisdictional defect. Specifically, the district court entered the order denying the motion on March 3, 2006. Appellant did not file the notice of appeal, however, until September 15, 2006, well after the expiration of the thirty-day appeal period prescribed by NRAP 4(b). An untimely notice of

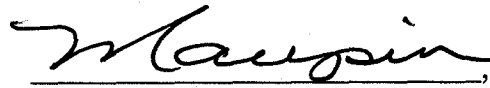
---

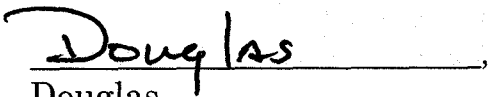
<sup>1</sup>When this appeal was originally docketed, it appeared from the district court minutes and order that appellant was represented by the Clark County Public Defender in the district court proceedings. On September 28, 2006, the Clark County Public Defender filed a motion to withdraw as counsel in this appeal. After further review of the documents before this court, it appears that appellant was acting in proper person in the district court. The provisions of NRAP 3C do not, therefore, apply to this appeal. Accordingly, the Clark County Public Defender's motion is granted and that office is relieved of any further obligation in connection with this appeal.

appeal fails to vest jurisdiction in this court.<sup>2</sup> Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.

  
Gibbons J.

  
Maupin J.

  
Douglas J.

cc: Honorable Jackie Glass, District Judge  
Clark County Public Defender Philip J. Kohn  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk  
Patrick F. Funderburke

---

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