

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN DAVID BENCOMA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48714

FILED

MAR 02 2007

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 driving under the influence of a prohibited substance. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

The judgment of conviction was entered on December 1, 2006. The notice of appeal was filed on January 4, 2007, after the thirty-day appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court.¹ It appeared possible that the notice of appeal might have been delivered to prison officials within the appeal period and might therefore be timely.²

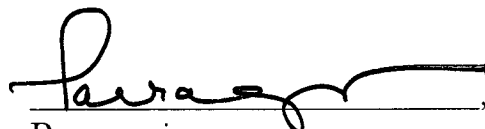
Accordingly, on January 23, 2007, this court ordered appellant's counsel to investigate on behalf of appellant whether any documents in the custody of prison officials, such as a prison log, would verify whether appellant submitted his notice of appeal to a prison official

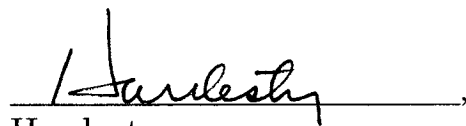
¹See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).


²See 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).

for mailing prior to the expiration of the thirty-day appeal period. On February 13, 2007, counsel filed a response to this court's order. In the response, counsel informs this court that there is no record of appellant sending out any legal mail, and that there are no entries for appellant in the appellate log. We therefore conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

cc: Hon. Brent T. Adams, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk
Steven David Bencoma