

IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICK DENNING,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49170

FILED

MAY 23 2007

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 for an amended judgment of conviction to include jail time credits. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

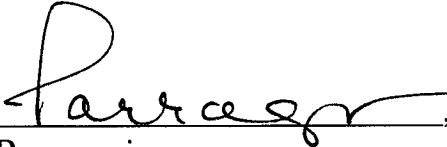
This court's preliminary review of this appeal reveals a jurisdictional defect. Specifically, the district court entered the order denying the motion on January 8, 2007. Appellant did not file the notice of appeal, however, until March 23, 2007, well after the expiration of the thirty-day appeal period prescribed by NRAP 4(b).¹ An untimely notice of

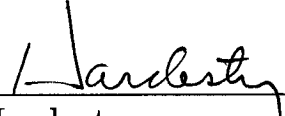
¹Because appellant failed to raise his claim for presentence credits in a post-conviction petition for a writ of habeas corpus, appellant may not take advantage of the appeal period set forth in NRS 34.575(1) for a post-conviction petition for a writ of habeas corpus; rather, appellant is bound by the appeal period set forth in NRAP 4(b). See Griffin v. State, 122 Nev. ___, 137 P.3d 1165 (2006) (holding that a criminal defendant must raise a claim for presentence credit on direct appeal or in a post-conviction petition for a writ of habeas corpus filed in compliance with the procedural requirements set forth in NRS chapter 34); Edwards v. State, 112 Nev. 704, 918 P.2d 321 (1996) (holding that a criminal defendant could not take advantage of the appeal period set forth in NRS 34.575 when the

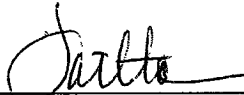
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appeal fails to vest jurisdiction in this court.² Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

cc: Hon. Stewart L. Bell, District Judge
Patrick Denning
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

... continued

defendant did not file a post-conviction petition for a writ of habeas corpus, but rather filed a motion to correct an illegal sentence).

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