

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIO RAY CHAVEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49259

FILED

JUN 12 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 theft. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

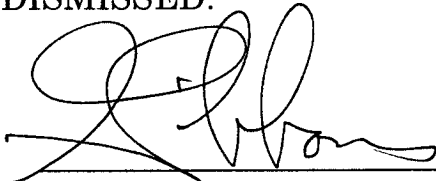
The judgment of conviction was filed on February 21, 2007. The notice of appeal was filed on April 5, 2007, well after the thirty-day appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court.¹ Because it appeared possible that the notice of appeal was delivered to prison officials within the thirty-day period, and might therefore be timely, 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 for mailing prior to the expiration of the thirty-day appeal period.²

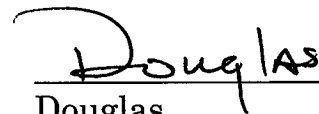
¹See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

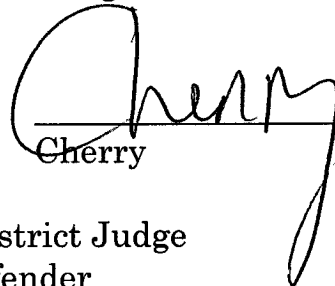
²See Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992) (notice of appeal shall be deemed filed on the date it is delivered to a prison official).

On May 9, 2007, counsel filed a response in which he informs this court that there are no entries in the prison log for appellant's notice of appeal. We therefore conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Steven R. Kosach, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk
Mario Ray Chavez