

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM E. HARRIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49974

**FILED**

SEP 11 2007

ORDER DISMISSING APPEAL

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY A. Alvarado  
DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a motion to strike habitual criminal enhancement and an order denying a motion for a new trial. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

This court's preliminary review of this appeal reveals jurisdictional defects. Because the motion to strike habitual criminal enhancement was filed prior to sentencing, and orally denied prior to sentencing, the decision to deny the motion was not independently appealable.<sup>1</sup> Rather, the denial of the motion to strike was an intermediate decision of the district court entered in relation to the February 9, 2005 judgment of conviction and should have been pursued in a timely direct appeal from the judgment of conviction. Thus, this court lacks jurisdiction over this portion of the appeal.

Regarding the denial of the motion for a new trial, appellant's notice of appeal was untimely filed. Specifically, the district court entered the order denying the motion for a new trial on January 31, 2005.

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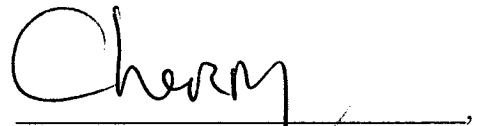
<sup>1</sup>See NRS 177.015(3); NRS 177.045.

Appellant did not file the notice of appeal, however, until August 7, 2007, well after the expiration of the thirty-day appeal period prescribed by NRAP 4(b)(1). Because an untimely notice of appeal fails to vest jurisdiction, we lack jurisdiction to consider this appeal.<sup>2</sup> Accordingly, we

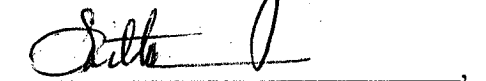
ORDER this appeal DISMISSED.

 J.

Gibbons

 J.

Cherry

 J.

Saitta

cc: Hon. Jessie Elizabeth Walsh, District Judge  
William E. Harris  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

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