

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL STEWART SPENCER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50126

MICHAEL STEWART SPENCER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50127

FILED

OCT 17 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *S. Young*
DEPUTY CLERK

ORDER DISMISSING APPEALS

These are appeals from "judgments on re-sentencing." We elect to consolidate these appeals for disposition.¹ Docket number 50126 is an appeal from a judgment of conviction, pursuant to a jury verdict, of two counts of burglary and two counts of obtaining money by false pretenses. Docket number 50127 is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of obtaining property by false pretenses, one count of uttering a forged instrument, one count of theft, and two counts of burglary. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

¹See NRAP 3(b).

The judgments of conviction were entered by the district court on July 26, 2007. The notices of appeal were filed in the district court on September 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.²

On September 11, 2007, this court ordered appellant's counsel, Scott Edwards, to show cause why these appeals should not be dismissed for lack of jurisdiction. It appeared possible that appellant delivered the notices of appeal to a prison official for mailing in a timely fashion and that this court may have jurisdiction over this appeal.³


On September 20, 2007, Edwards filed a response to this court's order to show cause. In the response, Edwards states that the legal mail log indicates that appellant delivered mail addressed to the Second Judicial District court on August 20, 2007, and on August 29, 2007. The proper person notices of appeal were signed and dated on August 24, 2007 by appellant, and were therefore prepared subsequent to August 20, 2007. It therefore appears that the notices of appeal were delivered to prison officials on August 29, 2007, after the expiration of the thirty-day appeal


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

³See Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992) (notice of appeal shall be deemed to have been filed on the date delivered to prison official).

period. Accordingly, we conclude that we lack jurisdiction to entertain these appeals, and we

ORDER these appeals DISMISSED.


_____, J.
Gibbons


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. Robert H. Perry, District Judge
Scott W. Edwards
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk