

IN THE SUPREME COURT OF THE STATE OF NEVADA

SOLOMON M. BROOKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50380

FILED

APR 09 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count each of battery with the use of a deadly weapon resulting in substantial bodily harm and attempted robbery. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

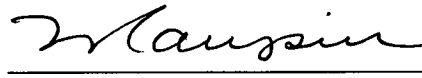
Our preliminary review of this appeal revealed a jurisdictional defect. Specifically, the judgment of conviction was filed on September 13, 2007. The notice of appeal was filed on October 16, 2007, one day after the expiration of the thirty-day appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court.¹ Accordingly, on January 30, 2008, this court ordered appellant's counsel Thomas A. Ericsson to show cause why this appeal should not be dismissed for lack of jurisdiction.

On February 21, 2008, Ericsson filed a response to this court's order to show cause. In the response, Ericsson indicates that he "has no information regarding the timeliness of the notice of appeal filed by Mr.

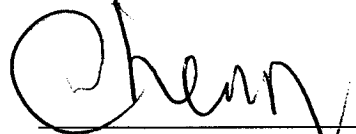
¹See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

Brooks in this matter.” Additionally, our review of the limited record before this court indicates that the notice of appeal was signed by one of appellant’s family members and dated on October 16, 2007, one day after the expiration of the thirty-day appeal period. It therefore does not appear that appellant delivered his notice of appeal to the district court or to prison officials by October 15, 2007.² Having reviewed the record and determined that the notice of appeal was untimely filed, we conclude that we lack jurisdiction over the appeal, and we therefore

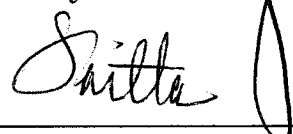
ORDER this appeal DISMISSED.

 _____, J.

Maupin

 _____, J.

Cherry

 _____, J.

Saitta

cc: Hon. David B. Barker, District Judge
Solomon M. Brooks
Draskovich & Oronoz, P.C.
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

²Cf. 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).