

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALBERT GARCIA,
Appellant,
vs.
WARDEN, NORTHERN NEVADA
CORRECTIONAL CENTER, JIM
BENEDETTI; I. BURDEN, FOOD
MANAGER; AND J. PEERY, R.N.,
Respondents.

No. 51482

FILED

MAY 15 2008

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

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order denying a petition for a writ of mandamus. First Judicial District Court, Carson City; James Todd Russell, Judge.

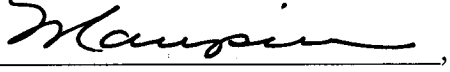
Notice of entry of the district court's February 14, 2008 order was served on appellant by respondents' counsel via U.S. mail on February 15, 2008. Because service of the notice of entry was by mail, appellant had 33 days from the date of service to file his notice of appeal.¹ Appellant's notice of appeal was therefore due to be filed in the district court on or before March 19, 2008. Appellant filed his notice of appeal on April 23, 2008, well beyond the 33-day period.² Since appellant's notice of

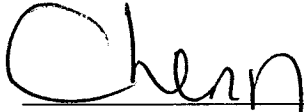
¹See NRAP 4(a)(1); NRAP 26(c).


²Appellant's notice of appeal purports to be from a March 20, 2008 district court order. Our review of the district court docket entries, however, reveals that no such order exists. Rather, the February 14, 2008 order was the appealable final judgment.

appeal was untimely filed, we lack jurisdiction to consider this appeal.³
Accordingly, we

ORDER this appeal DISMISSED.


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. James Todd Russell, District Judge
Albert Garcia
Attorney General Catherine Cortez Masto/Carson City
Carson City District Attorney
Carson City Clerk

³See Healy v. Volkswagenwerk, 103 Nev. 329, 741 P.2d 432 (1987)
(noting that an untimely notice of appeal fails to vest jurisdiction in this
court).