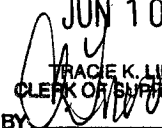


IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH VINCENT PALOVICH A/K/A  
JOSEPH VINCENT PALOVICH, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 51488

**FILED**

JUN 10 2008  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

A preliminary review of the documents submitted in this appeal revealed a potential jurisdictional defect. In particular, it appeared that the notice of appeal was not timely filed in the district court. The district court entered its order denying appellant's petition on March 11, 2008, and served written notice of entry of the order on appellant and his counsel on March 12, 2008. Appellant did not file the notice of appeal in the district court, however, until April 18, 2008, after expiration of the 30-day appeal period prescribed by NRS 34.575. Because an untimely notice of appeal fails to vest jurisdiction in this court,<sup>1</sup> we ordered appellant to

<sup>1</sup>See Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994).

show cause why this appeal should not be dismissed for lack of jurisdiction.

In response, counsel for appellant explains that after written notice of the order's entry had been served, counsel attempted to determine whether appellant wanted to appeal from the order, filed a motion to be appointed as counsel for an appeal (which was granted on March 17, 2008), and directed office staff to prepare the notice of appeal. According to counsel, due to a staff member's illness and a calendaring error, the notice of appeal was not filed until April 18, 2008, after expiration of the 30-day appeal period. Based on these circumstances and "in the interests of judicial economy," counsel asks this court to allow this appeal to proceed on its merits because the "calendaring error and illness of [counsel's] employee was something [appellant] had no control over."

While we are not unsympathetic to appellant's situation, this court has repeatedly held that the untimely filing of a notice of appeal fails to vest jurisdiction in this court.<sup>2</sup> This court's rules preclude this court from extending the time to file a notice of appeal.<sup>3</sup> Because appellant

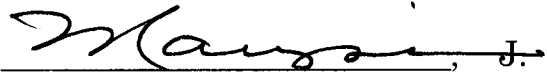
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<sup>2</sup>See id.

<sup>3</sup>NRAP 26(b) (providing that the court may enlarge the time provided in a rule or order for doing any act, "but the court may not enlarge the time for filing a notice of appeal"); see also NRAP 3(a) ("Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal . . .").

failed to timely file the notice of appeal, this court lacks jurisdiction over this appeal. Accordingly, we

ORDER this appeal DISMISSED.



Maupin



Cherry



Saitta

cc: Hon. Lee A. Gates, District Judge  
Law Offices of Cynthia Dustin, LLC  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk