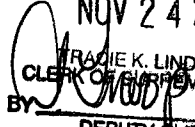


IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY LYNN PALMER A/K/A
JEFFREY LYNN PALMER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52434

FILED

NOV 24 2008
TRACIE K. LINDEMAN
CLERK OF THE SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of burglary while in possession of a deadly weapon, robbery with the use of a deadly weapon, and carrying a concealed weapon. Eighth Judicial District Court, Clark County; David Wall, Judge.

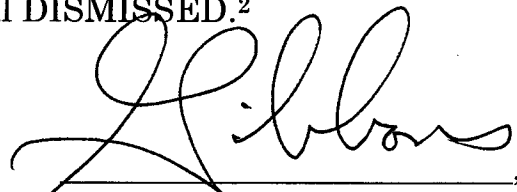
Our initial review of this appeal revealed a jurisdictional defect. Specifically, the notice of appeal appeared to be untimely. The judgment of conviction was entered on June 27, 2008. However, the notice of appeal was not filed until September 16, 2008, well after the expiration of the 30-day appeal period prescribed by NRAP 4(b). "[A]n untimely notice of appeal fails to vest jurisdiction in this court."¹ Accordingly, this court ordered appellant's counsel John P. Lukens to show cause why this appeal should not be dismissed for lack of jurisdiction.

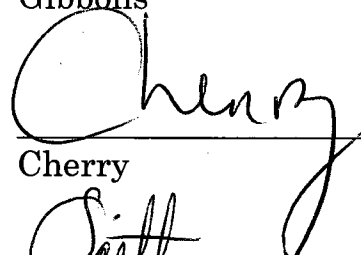
¹Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994).

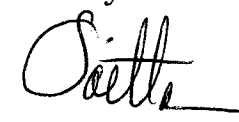
In response, attorney James S. Kent states that he appeared on behalf of Mr. Lukens for appellant at sentencing and, when Mr. Lukens was unable to return to his practice, Mr. Kent took over the practice. Because Mr. Kent was not aware that he had a file in his name for civil and criminal appeals at the Regional Justice Center, Mr. Kent did not check this file, and neither he, nor Mr. Lukens, received a copy of the judgment of conviction in this matter until September. Mr. Kent concedes that the appeal was not timely filed, but urges this court to permit the appeal to proceed because the delay was not intentional.

Because the notice of appeal was untimely filed, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.²


_____, C. J.
Gibbons


_____, J.
Cherry


_____, J.
Saitta

²We note that appellant may raise an appeal deprivation claim in a timely-filed post-conviction petition for a writ of habeas corpus. See NRS 34.726; Lozada, 110 Nev. at 359, 871 P.2d at 950.

cc: Hon. David Wall, District Judge
Law Offices of John P. Lukens and James S. Kent
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk
Jeffrey Lynn Palmer