

IN THE SUPREME COURT OF THE STATE OF NEVADA

GINGER SAM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

GINGER SAM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 34754 ✓

FILED

SEP 13 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

No. 34755

ORDER DISMISSING APPEALS

These are consolidated appeals from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. These appeals are subject to the provisions of Nevada Rule of Appellate Procedure 3C.

NRS 34.575(1) provides that the notice of appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus must be filed "within 30 days after service by the court of written notice of entry of the order or judgment." (Emphasis added). NRS 34.830(3) requires that such notice of entry be prepared by the clerk of the district court and that it comply substantially with a

specific form. There was no notice of entry of the order in the documents sent to this court by the district court.

Accordingly, in order to determine whether this court had jurisdiction to entertain this appeal, this court issued a notice to the district court directing the district court to provide a copy of the notice of entry. On September 21, 1999, the district court provided copies of the order denying the post-conviction petition. The district court failed to provide a copy of the notice of entry.

On February 25, 2000, this court entered an order dismissing Docket No. 34754, based on a motion to dismiss filed by respondent. This court concluded that the notice of appeal had been untimely filed. On May 31, 2000, this court entered an order recalling remittitur and reinstating the appeal in Docket No. 34754, noting that the district court apparently had never served a notice of entry on the appellant, and the appeal was therefore timely.

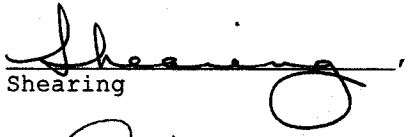
On August 24, 2000, after the completion of briefing, the district court provided a certified copy of the notice of entry of the order, which was filed in the district court on March 19, 1999.¹

Appellant did not file the notices of appeal, however, until August 26, 1999, well after the expiration of

¹It is unknown why the notice of entry was not included with the documents originally provided to this court by the district court clerk, and why it was not provided when it was requested by this court on September 15, 1999.

the thirty-day appeal period prescribed by NRS 34.575. An untimely notice of appeal fails to vest jurisdiction in this court. See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994). Accordingly, we conclude that we lack jurisdiction to consider these appeals, and we

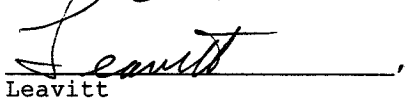
ORDER these appeals dismissed.



Shearing J.



Agosti J.



Leavitt J.

cc: Hon. Steven R. Kosach, District Judge
Attorney General
Washoe County District Attorney
David J. Otto
Washoe County Clerk