

IN THE SUPREME COURT OF THE STATE OF NEVADA

BENJAMIN ALLEN HOUSER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52816

FILED

JAN 09 2009

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

ORDER DISMISSING APPEAL

This is an appeal from an order revoking probation and an amended judgment of conviction. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

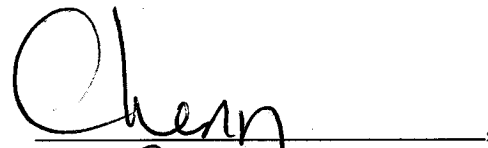
Our initial review of this appeal revealed a jurisdictional defect. Specifically, the notice of appeal appeared to be untimely. The order revoking probation and amended judgment of conviction was entered on September 30, 2008. However, the notice of appeal was not filed until November 21, 2008, well 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, we ordered appellant’s counsel to show cause why this appeal should not be dismissed for lack of jurisdiction.

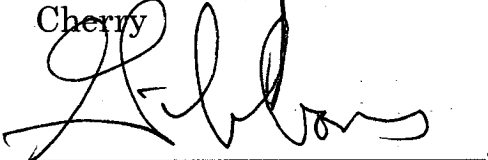
Appellant’s counsel states that he has reviewed the “notice of appeal,” and it appears that the document was intended to be sent to Judge Leavitt. Appellant’s counsel further states that it appears that


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

appellant was intending to seek reconsideration of his sentence. Finally, appellant's counsel states that based on the postage meter cancellation, it appears that the "notice of appeal" was untimely. Having reviewed the documents in this appeal, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Saitta

cc: Hon. Michelle Leavitt, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk
Benjamin Allen Houser