

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL JOSEPH JARVIS A/K/A
DANNY JOSEPH JARVIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53383

FILED

MAY 06 2009

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

ORDER DISMISSING APPEAL

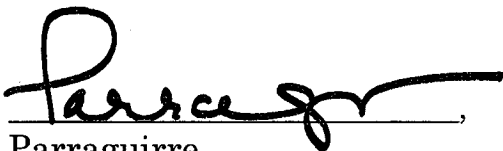
This is an appeal from a judgment of conviction. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

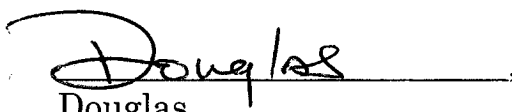
Our initial review of this appeal revealed a jurisdictional defect. Specifically, the notice of appeal appeared to be untimely. The judgment of conviction was entered on December 18, 2008. However, the notice of appeal was not filed until February 24, 2009,¹ well after the expiration of the 30-day appeal period prescribed by NRAP 4(b). Because "an untimely notice of appeal fails to vest jurisdiction in this court," we ordered appellant's counsel to show cause why this appeal should not be dismissed for lack of jurisdiction. Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Appellant's counsel acknowledges that the notice of appeal was not timely filed.

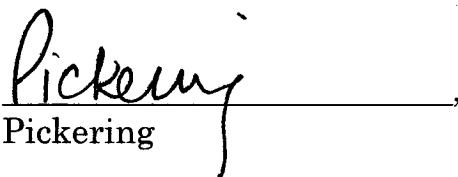
¹We note that the notice of appeal was not filed in the district court until March 4, 2009. However, because the original notice of appeal was received by this court on February 24, 2009, and then transmitted to the district court for filing, we construed the filing date of the notice of appeal as the date this court received the notice of appeal.

On April 23, 2009, appellant submitted a proper person motion to reopen the time to file an appeal. The clerk of this court shall file the "Motion to Reopen the Time to Appeal" received on April 23, 2009. In the motion, appellant concedes that the notice of appeal was not timely filed, but requests this court to extend the time for filing a notice of appeal because, after sentencing, he expressed his desire to appeal on the record. Although the documents filed in this appeal support appellant's assertion that he timely expressed a desire to appeal his conviction, because the notice of appeal was not timely filed, we conclude that we lack jurisdiction to consider this appeal. Id. Accordingly, we

ORDER this appeal DISMISSED.²

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

²We note that our decision does not leave appellant without a complete and adequate remedy. Appellant may obtain relief by filing a timely petition for a writ of habeas corpus in the district court alleging an appeal deprivation claim pursuant to this court's holding in Lozada.

We have considered all proper person documents submitted in this appeal, and we conclude that, in light of this order, no relief is warranted.

cc: Hon. Robert W. Lane, District Judge
Carl M. Joerger
Attorney General Catherine Cortez Masto/Carson City
Nye County District Attorney/Pahrump
Nye County Clerk
Daniel Joseph Jarvis