

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 53430

FILED

MAY 12 2009

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


ORDER DISMISSING APPEAL


This is an appeal from an order appointing counsel. 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 order appointing counsel was entered on January 5, 2009. However, the notice of appeal was not filed until March 4, 2009, 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.” Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Additionally, the order appointing counsel is not substantively appealable. The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists. Castillo v. State, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). No statute or court rule provides for an appeal from a post-judgment order appointing counsel. See NRS 177.015(3) (“The defendant only may appeal from a final judgment or verdict in a criminal case.”). Accordingly, on March 23, 2009, we ordered appellant’s counsel to show cause why this appeal should not be dismissed for lack of jurisdiction.

To date, appellant's counsel has not responded to the order to show cause. Nevertheless, having reviewed the documents filed with the notice of appeal, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Robert W. Lane, District Judge
Gibson & Kuehn
Attorney General Catherine Cortez Masto/Carson City
Nye County District Attorney/Pahrump
Nye County Clerk
Danny Joseph Jarvis