

IN THE SUPREME COURT OF THE STATE OF NEVADA

JORGE MANUEL RIVERA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54149

FILED

AUG 25 2009

TRACIE K. LINDSEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

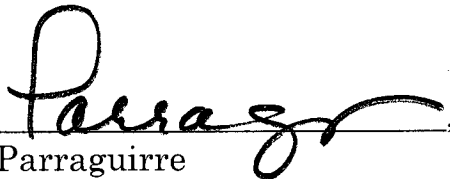
This is an appeal from a district court order declining to address ex parte communication. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

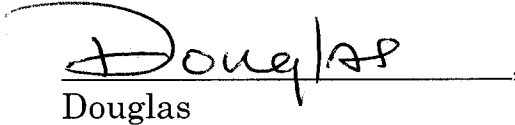
Our initial review of this appeal revealed a potential jurisdictional defect. The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists. See Castillo v. State, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Because no statute or court rule provides for an appeal from the above mentioned order, we directed appellant's counsel to show cause why this appeal should not be dismissed for lack of jurisdiction. In response, counsel informs this court that she has not been counsel for appellant since July 2007. To the extent this is an appeal from the judgment of conviction, counsel requests this court to find jurisdiction because any confusion that may have arisen as a result of a change in conflict counsel would not have been the fault of appellant.

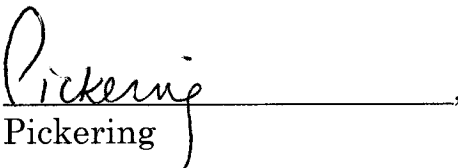
Having reviewed the documents filed in this appeal, we conclude that the order appealed from is not substantively appealable. Further, to the extent that the notice of appeal can be construed as an

appeal from the judgment of conviction, we conclude that the notice of appeal is untimely. “[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). Accordingly, we conclude we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. Robert H. Perry, District Judge
Jenny Hubach
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk