

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEBARON SANDERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54784

FILED

JAN 07 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit robbery, two counts of attempted robbery with the use of a deadly weapon, conspiracy to commit murder, first-degree murder with the use of a deadly weapon, and attempted murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

The notice of appeal was filed on October 16, 2009, well after expiration of the 30-day appeal period prescribed by NRAP 4(b)(1)(A). We reject appellant's arguments that due process requires a notice of entry of the judgment of conviction to trigger the appeal period or that a "clerical error" by the district court clerk in "fail[ing] to forward notice" of the judgment renders the sentence facially illegal so that the district court could modify the appeal period.¹ See NRAP 4(b)(1)(A) (notice of appeal

¹We note that appellant could have filed the notice of appeal after the announcement of the verdict or the sentence, see NRS 177.015(3); NRAP 4(b)(2); George v. State, 122 Nev. 1, 3, 127 P.3d 1055, 1056 (2006), two events for which he and counsel were present in court.

must be filed within 30 days after entry of judgment of conviction); NRAP 4(b)(4) (judgment is entered when signed by judge and filed with clerk); NRAP 26(b)(1)(A) (court cannot extend time to file notice of appeal except as provided in NRAP 4(c)); Walker v. Scully, 99 Nev. 45, 657 P.2d 94 (1983) (holding that district court lacks authority to extend time period for filing notice of appeal); Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996) (providing that motion to correct illegal sentence may only challenge facial legality of sentence—either that district court was without jurisdiction to impose sentence or sentence imposed exceeded statutory maximum—and that motion to modify sentence “is limited in scope to sentences based on mistaken assumptions about a defendant’s criminal record which work to the defendant’s extreme detriment”). Because the notice of appeal was untimely filed, we lack jurisdiction. Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Accordingly, we

ORDER this appeal DISMISSED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Douglas W. Herndon, District Judge
Christiansen Law Offices
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk
Debaron Sanders