

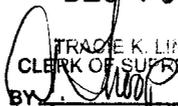
IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY WILLIAM HUNTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54892

FILED

DEC 15 2009

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an amended judgment of conviction. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant was convicted, pursuant to a guilty plea, of one count of driving and/or being in actual physical control while under the influence of intoxicating liquor in violation of NRS 484.3795(2). The judgment of conviction was entered on June 29, 2009. Appellant filed an appeal on September 1, 2009, which was dismissed as untimely on September 24, 2009. Hunter v. State, Docket No. 54474 (Order Dismissing Appeal, September 24, 2009). On October 12, 2009, "pursuant to notification from the District Attorney's Office, the Defendant's Judgment of Conviction [was] amended" to substitute the proper NRS code, NRS 484.3792(2), for NRS 484.3795(2). No other substantive changes were made to the original judgment of conviction.

Our review of this appeal reveals a jurisdictional defect. Specifically, appellant is not an aggrieved party. By statute, only the "party aggrieved" in a criminal action has the right to appeal. NRS 177.015. Appellant was not aggrieved by the amended statutory designation. On November 23, 2009, appellant's counsel filed a notice of

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intent to not file a request for rough draft transcript form. In the notice, counsel agreed that "the only issue that could be appealed is the State's citation of the correct statute."

To the extent that appellant appeals from the original judgment of conviction, his appeal is untimely. The original judgment was entered on June 29, 2009. However, the notice of appeal was not filed until November 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). Therefore, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Stefany Miley, District Judge
Clark County Public Defender Philip J. Kohn
Gregory William Hunter
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk