

IN THE SUPREME COURT OF THE STATE OF NEVADA

TUTULU HALALILO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35136

FILED

APR 17 2000

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Reback*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from an order of the district court denying a motion to grant a writ of habeas corpus and a supplemental petition for a writ of habeas corpus. Our review of this appeal indicates that the district court entered its order on January 15, 1998. The district court served notice of entry of that order on appellant on January 20, 1998. Appellant did not file the notice of appeal, however, until November 9, 1999, well after the expiration of the thirty-day appeal period prescribed by NRS 34.575. An untimely notice of appeal fails to vest jurisdiction in this court. See *Lozada v. State*, 110 Nev. 349, 871 P.2d 944 (1994).¹

Accordingly, we

ORDER this appeal dismissed.²

Rose _____, C.J.
Rose
Young _____, J.
Young
Leavitt _____, J.
Leavitt

¹In his notice of appeal, appellant argues that he was never served with notice of entry of the district court's order. Even assuming, without deciding, that appellant did not receive service of notice of entry, we conclude that this appeal lacks merit. Appellant had previously filed two post-conviction petitions for writs of habeas corpus, thus, appellant's motion and petition were successive. See NRS 34.810(2). Appellant failed to demonstrate good cause and prejudice to excuse the procedural defects. See NRS 34.810(3); *Harris v. Warden*, 114 Nev. 956, 964 P.2d 785 (1998); *Lozada v. State*, 110 Nev. 349, 871 P.2d 944 (1994).

²We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.

cc: Hon. Jerome M. Polaha, District Judge
Attorney General
Washoe County District Attorney
Tutulu Halalilo
Washoe County Clerk