

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL KELVIN MCLEMORE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57277

FILED

FEB 23 2011

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

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of malicious destruction of property. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

On January 26, 2011, respondent moved to dismiss this appeal for lack of jurisdiction. Because it appeared that the notice of appeal was not timely filed, on January 27, 2011, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

In response, appellant asserts that the notice of appeal was timely filed on Monday November 29, 2010, because the last day for filing the notice of appeal fell on Thursday November 25, 2010, a nonjudicial day. See NRAP 26(a)(3).

The judgment of conviction was filed on October 25, 2010. Therefore, to be timely, the notice of appeal had to be filed on or before Wednesday November 24, 2010. See NRAP 4(b)(1)(B) (“notice of appeal shall be filed with the district court clerk within 30 days after the entry of the judgment”); NRAP 26(a). The notice of appeal was not timely filed. Therefore, we lack jurisdiction to consider this appeal. See Lozada v.

State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Accordingly, we grant respondent's motion and we

ORDER this appeal DISMISSED.

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Hon. David B. Barker, District Judge
Law Offices of Cynthia Dustin, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk