

IN THE SUPREME COURT OF THE STATE OF NEVADA

EARL DAVIS, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57892

FILED

SEP 15 2011

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

ORDER DISMISSING APPEAL

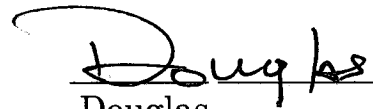
This is a proper person appeal from an order of the district court purportedly denying a motion to modify or correct an illegal sentence. Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

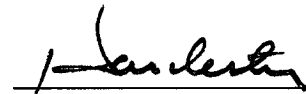
Appellant claims that he is appealing from an order filed on February 16, 2011, denying a motion to modify or correct an illegal sentence. A review of the record reveals that the district court did not issue an order denying a motion to modify or correct an illegal sentence on February 16, 2011.¹ Instead on that date, the district court filed a second notice of entry of order for an order denying a post-conviction petition for a writ of habeas corpus entered on September 3, 2010. To the extent that appellant was attempting to appeal from the order denying his post-conviction petition for a writ of habeas corpus entered on September 3,

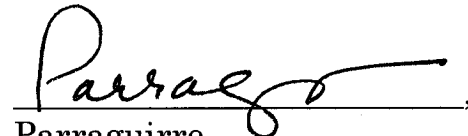
¹The district court denied a motion to modify or correct an illegal sentence on July 21, 2010. To the extent that appellant is attempting to appeal from that order, the notice of appeal was untimely filed. NRAP 4(b); see also Edwards v. State, 112 Nev. 704, 918 P.2d 321 (1996).

2010, the notice of appeal was untimely filed. NRAP 4(b); NRS 34.575(1); NRAP 26(c). The original notice of entry of order was filed on September 13, 2010, and the time period for filing a timely notice of appeal began to run from that date. Because an untimely notice of appeal fails to vest jurisdiction in this court, Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994), we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Jerome T. Tao, District Judge
Earl Davis, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk