

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID WAYNE CLARK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58130

FILED

MAY 06 2011

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


ORDER DISMISSING APPEAL

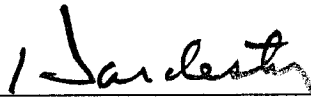
This appeal was initiated by the filing of a proper person notice of appeal. The notice of appeal states that this is an appeal from “the denial of the district court’s order of [appellant’s] petition for writ of habeas corpus (post-conviction) on or about February 16, 2010.” Sixth Judicial District Court, Lander County; Richard Wagner, Judge.

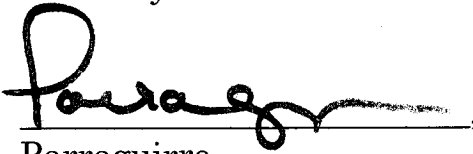
We lack jurisdiction to consider this appeal. The district court docket entries indicate that the district court did not enter an order denying appellant’s petition on February 16, 2010. Rather, it appears that the petition was resolved by stipulation of the parties on February 2, 2010. To the extent that appellant is attempting to appeal from the third amended judgment of conviction entered May 18, 2010, appellant is not an aggrieved party, NRS 177.015 (only an aggrieved party may appeal), and the notice of appeal is untimely because it was filed on March 21, 2011, well beyond the 30-day appeal period prescribed by NRAP 4(b), Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994) (untimely appeals fail

to vest jurisdiction in this court). Therefore we

ORDER this appeal DISMISSED.¹


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Richard Wagner, District Judge
Karla K. Butko
David Wayne Clark
Attorney General/Carson City
Lander County District Attorney
Lander County Clerk

¹In light of this order, no action will be taken on appellant's counsel's motion to withdraw.