

IN THE SUPREME COURT OF THE STATE OF NEVADA

EARLYN STEPHEN PITTS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58799

FILED

SEP 19 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 guilty plea, of unlawful sale of a controlled substance and being an ex-felon in possession of a firearm. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

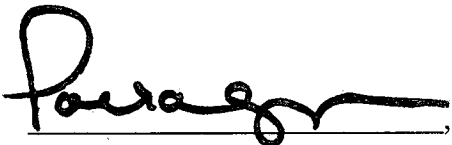
The notice of appeal was filed in the district court on July 14, 2011, nine days beyond the relevant appeal period. See NRAP 4(b)(1)(A). However, because it appeared that appellant might have delivered his notice of appeal to a prison official for mailing within the relevant appeal period, see Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992) (a proper person notice of appeal is deemed filed on the date it is delivered to a prison official for mailing), on August 9, 2011, we entered an order directing appellant's counsel to show cause why this appeal should not be dismissed as untimely. Appellant's counsel has not responded. Because appellant has failed to demonstrate that his notice of appeal was delivered to a prison official within the relevant appeal period, we conclude we lack jurisdiction over this appeal, see Lozada v. State, 110

Nev. 349, 352, 871 P.2d 944, 946 (1994) (“[A]n untimely notice of appeal fails to vest jurisdiction in this court.”), and we

ORDER this appeal DISMISSED.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Patrick Flanagan, District Judge
Scott W. Edwards
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk
Earlyn Stephen Pitts