

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHNNIE BENJAMIN JORDAN, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59453

FILED

JAN 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

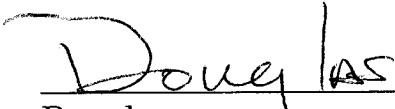
ORDER DISMISSING APPEAL


This is an appeal from a district court order denying a motion to withdraw a guilty plea. Eighth Judicial District Court, Clark County; Doug Smith, Judge. Because the notice of appeal was filed in district court after expiration of the 30-day appeal period prescribed by NRAP 4(b), we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. 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.”); see also Moran v. Bonneville Square Assocs., 117 Nev. 525, 527, 25 P.3d 898, 899 (2001) (“[T]he burden rests squarely upon the shoulders of a party seeking to invoke our jurisdiction to establish, to our satisfaction, that this court does in fact have jurisdiction.”). In response, counsel for appellant indicates that he had difficulty communicating with appellant as to his desire to appeal the district court’s decision and filed the notice of appeal promptly upon learning that appellant wanted to do so and that counsel was never served with a copy of the district court’s order.


We have consistently applied the 30-day appeal period in NRAP 4(b)(1) where, as here, “no other specific appeal period has been

provided by statute.” Edwards v. State, 112 Nev. 704, 709, 918 P.2d 321, 325 (1996). Unlike the specific appeal period that applies to a post-conviction petition for a writ of habeas corpus under NRS chapter 34, NRAP 4(b)(1) does not require service of notice of entry and the 30-day appeal period begins to run upon entry of the district court’s written decision. Compare NRS 34.575(1), (2), with NRAP 4(b)(1). The failure to file a timely notice of appeal affects the validity of an appeal, see NRAP 3(a)(2), and we cannot extend the time to file a notice of appeal except as provided in NRAP 4(c) (which does not apply here), NRAP 26(b)(1)(A). Because appellant failed to file a timely notice of appeal, we lack jurisdiction and therefore

ORDER this appeal DISMISSED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Doug Smith, District Judge
Justice Law Center
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk