

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAUSTEVEION JOHNSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60471

FILED

MAY 09 2012

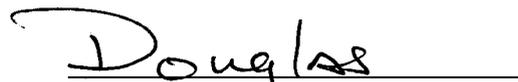
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Ingou
DEPUTY CLERK

ORDER DISMISSING APPEAL

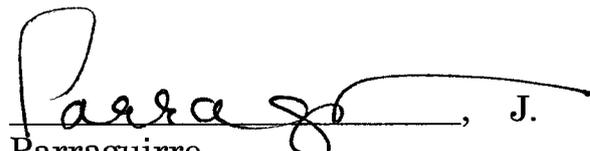
This is an appeal from a district court order denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge. Upon determining that the notice of appeal was not timely filed in the district court, see NRS 34.575(1), we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction, 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.”). In response, appellant suggests that he had good cause to file the notice of appeal more than three years after notice of entry of the order had been served. Specifically, he points to his long history of mental illness and the pretrial finding of incompetence, arguing that he “was incapable of complying with the procedural requirement in this matter to file a timely notice of appeal.” Unlike, the procedural default provisions cited by appellant that apply to post-conviction habeas petitions, NRS 34.726; NRS 34.800; NRS 34.810, there are no good cause provisions to excuse the untimely filing of a notice of appeal, NRS 34.575(1); NRAP 4(b). Cf. Gonzales v. State, 118 Nev. 590, 595, 53 P.3d 901, 903 (2002) (“[U]nlike the strict jurisdictional time limits for filing a

notice of appeal, the one-year time limit for filing a post-conviction habeas petition may be excused by a showing of good cause and prejudice.”). And the time to file a notice of appeal cannot be enlarged by this court. NRAP 26(b). “The filing of a timely notice of appeal is a fundamental jurisdictional requirement; without it, this court never obtains jurisdiction over an appeal and has not power to consider the issues raised” Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1134 (1998). Because the notice of appeal was not timely filed, we lack jurisdiction and therefore

ORDER this appeal DISMISSED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Michelle Leavitt, District Judge
Federal Public Defender/Las Vegas
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk