

IN THE SUPREME COURT OF THE STATE OF NEVADA

GUILLERMO A. PADILLA-MARTINEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 60961

**FILED**

NOV 14 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *R. Malme*  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of second-degree murder with the use of a deadly weapon. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

The judgment of conviction was entered on April 19, 2012. Appellant filed a proper person notice of appeal in the district court on May 25, 2012, four days after the 30-day appeal period expired. See NRAP 4(b).<sup>1</sup> In response to an order to show cause, appellant concedes that he did not deliver the notice of appeal to a prison official for mailing to the district court clerk but instead mailed the notice of appeal to his sister, who then mailed the notice to the district court clerk. Appellant's sister is not sure when she received the notice but represents that she mailed it to the district court on the same date that she received it. Appellant also indicates that there could have been a delay of several days between the date that the notice was delivered to the court and the date that it was processed and filed. Based on these representations and

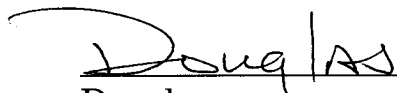
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<sup>1</sup>The notice of appeal indicates that appellant signed it on May 8, 2012, within the 30-day appeal period.

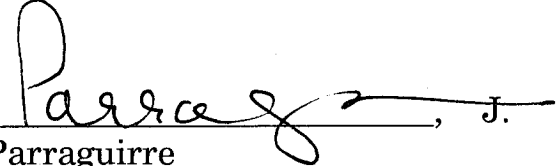
general “vagaries of the postal system and the district court clerk’s office,” appellant asks this court to treat the notice as timely filed based on the prison mailbox rule set forth in Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992).

To take advantage of the prison mailbox rule, an inmate must deliver the notice of appeal “into the hand of a prison official,” id. at 477, 835 P.2d at 13; NRAP 4(d), and the inmate must use the notice-of-appeal log or another system designed for legal mail if the institution has such a log or system, NRAP 4(d). Appellant did not meet these requirements. Because the notice of appeal was untimely filed, we lack jurisdiction over this appeal. Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994). We therefore

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Connie J. Steinheimer, District Judge  
Law Office of Thomas L. Qualls, Ltd.  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk  
Guillermo Padilla-Martinez