

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN ANTHONY ROBERTS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 62342

**FILED**

JAN 09 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Tracie K. Lindeman*  
DEPUTY CLERK

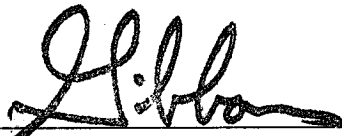
ORDER DISMISSING APPEAL

This is an appeal from the judgment of conviction. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.


Appellant's first appeal from the judgment of conviction was dismissed as untimely. See Roberts v. State, Docket No. 60847 (Order Dismissing Appeal, July 26, 2012). Appellant's second attempt at a direct appeal is also untimely. See NRAP 4(b)(1)(A). We lack jurisdiction to

consider this appeal, see Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994), therefore we

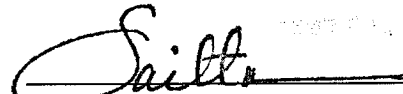
ORDER this appeal DISMISSED.<sup>1</sup>

 , J.

Gibbons

 , J.

Douglas

 , J.

Saitta

<sup>1</sup>As we explained in the July 26, 2012, Order Dismissing Appeal, appellant may have a valid appeal deprivation claim that may be raised by filing a timely post-conviction petition for a writ of habeas corpus in the district court pursuant to NRAP 4(c). See NRS 34.726(1) (post-conviction petition for a writ of habeas corpus must be filed within 1 year of entry of the judgment of conviction). It appears from the district court docket entries that, after entry of the Order Dismissing Appeal in Docket No. 60847 and before the issuance of the remittitur, appellant filed a motion to appoint counsel in the district court on August 8, 2012. However, it appears that nothing further has been done about appointing counsel and furthering appellant's efforts regarding his appeal deprivation claim. As time is running out on appellant's post-conviction options, we direct the district court to resolve any of appellant's attempts to have counsel appointed.

cc: Hon. Robert W. Lane, District Judge  
Brian Anthony Roberts  
Michael P. Printy  
Nye County District Attorney  
Attorney General/Carson City  
Nye County Clerk