

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Appellant,  
vs.  
TONI MARIE HARDIN,  
Respondent.

No. 64646

**FILED**

**JAN 27 2014**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT

BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is an appeal from a district court order granting respondent's motion to suppress evidence. First Judicial District Court, Carson City; James Todd Russell, Judge.

NRS 177.015(2) requires that the State file a notice of appeal in the district court within two judicial days of the district court's ruling. Additionally, the State must file a separate notice of appeal in this court within five days after the ruling by the district court. NRS 177.015(2); *State v. Loyle*, 101 Nev. 65, 66, 692 P.2d 516, 517 (1985); *State v. Braidy*, 104 Nev. 669, 765 P.2d 187 (1988). This court's preliminary review of this appeal revealed a jurisdictional defect. Specifically, the State filed a timely notice of appeal in the district court, but did not timely file a separate notice of appeal in this court. Therefore, this court directed the State to show cause why this appeal should not be dismissed for lack of jurisdiction.

In response to our show cause order, the State asserts that a timely notice of appeal was filed in this court when the district court clerk filed the first notice of appeal in this court on the fifth judicial day after the district court's ruling. The State also urges this court to revisit *Loyle*

and adopt the dissent's reasoning that the timely filing of the additional five-day notice in this court is not a jurisdictional requirement. *Loyle*, 101 Nev. at 67, 692 P.2d at 518 (Steffen, J., dissenting).

To invoke this court's jurisdiction under NRS 177.015(2), the State must file a separate notice of appeal in this court within five judicial days of the district court's ruling. The district court clerk's transmission of the notice of appeal to this court within that five-day period is not sufficient. We decline the State's invitation to revisit this court's holding in *Loyle*. Because the State failed to fully comply with the jurisdictional requirements of NRS 177.015(2), we conclude that we lack jurisdiction to consider this appeal and we

ORDER this appeal DISMISSED.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Cherry, J.  
Cherry

cc: Hon. James Todd Russell, District Judge  
Attorney General/Carson City  
Carson City District Attorney  
Robert B. Walker  
Carson City Clerk