

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL STREMLER; AND BARBARA
STREMLER,
Appellants,
vs.
ROBERT LINCOLN; AND SALLIE
LINCOLN,
Respondents.

No. 64820

FILED

MAY 27 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
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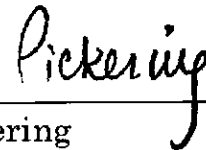
ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order enjoining appellants from interfering with respondents' right of access to an easement. Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

Respondents have moved to dismiss this appeal on the ground that the notice of appeal was untimely filed. Appellants have opposed the motion, and respondents have filed a reply. Having considered the parties' arguments and the documents before us, we conclude that appellants' notice of appeal was untimely. In particular, regardless of the district court's order relating to documents served by first class mail, the documents submitted to this court demonstrate that appellants consented in writing to service of documents by electronic means and that respondents served the notice of entry of the challenged order by electronic means on December 4, 2013. *See* NRCP 5(b)(2)(D) (providing that service of documents may be made by "[d]elivering a copy by electronic means if the attorney or the party served has consented to service by electronic means"); *see also* NRAP 25(c)(1)(D) (permitting service of documents "by

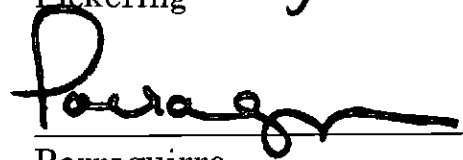
electronic means, if the party being served consents in writing"). Thus, because notice of entry of the challenged order was served electronically on December 4, 2013, the notice of appeal was required to be filed by January 6, 2014.¹ See NRAP 4(a)(1); NRAP 26(c). Because the notice of appeal was not filed until January 14, 2014, it was untimely, and we therefore lack jurisdiction to consider this appeal. See *Healy v. Volkswagenwerk Aktiengesellschaft*, 103 Nev. 329, 331, 741 P.2d 432, 433 (1987) (recognizing that an untimely notice of appeal fails to vest jurisdiction in this court).

Accordingly, we grant respondents' motion and
ORDER this appeal DISMISSED.



Pickering

, J.



Parraguirre

, J.



Saitta

, J.

¹In their opposition to the motion to dismiss, appellants assert that nonjudicial days are excluded from the calculation of the date that a document is due. But nonjudicial days are only excluded if the period being calculated is less than 11 days. See NRCP 6(a); NRAP 26(a)(2). Thus, nonjudicial days are included in the calculation of when a notice of appeal is due, except to the extent that the due date falls on a nonjudicial day. See NRCP 6; NRAP 4(a)(1); NRAP 26(a)(3).

cc: Hon. Richard Wagner, District Judge
Barbara Stremmer
Michael Stremmer
Parsons Behle & Latimer/Reno
Pershing County Clerk