

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
HEIDI LYNN FLEISS,
Respondent.

No. 70432

FILED

OCT 03 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *S. Young*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order granting a motion to suppress evidence. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

When appealing from a district court order granting a motion to suppress, two separate notices of appeal must be filed in order to vest jurisdiction in this court. NRS 177.015(2); *State v. Loyle*, 101 Nev. 65, 692 P.2d 516 (1985). The first notice of appeal must be filed in the district court within two judicial days of the ruling by the district court and the second notice of appeal must be filed with this court within five judicial days of the district court's ruling. Because appellant failed to file the second notice of appeal with this court within the five-day appeal period, we entered an order directing appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. In response, appellant argues that NRS 177.015(2) merely requires that the notice of appeal be filed in this court within five days of the district court's ruling and the notice of appeal was transmitted from the district court and filed in this court within the five-day appeal period. Contrary to appellant's assertion, this court has previously addressed the filing requirement for the notice of appeal and determined that in order to perfect a suppression appeal an

appellant must file two separate notices of appeal. *Loyle*, 101 Nev. 65, 692 P.2d 516. Because appellant did not timely file the second notice of appeal, we conclude we lack jurisdiction over this appeal, see *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994) ("an untimely notice of appeal fails to vest jurisdiction in this court"), and we

ORDER this appeal DISMISSED.

Cherry J.
Cherry

Douglas J.
Douglas

Gibbons J.
Gibbons

cc: Attorney General/Carson City
Nye County District Attorney
Mountain West Lawyers
Nye County Clerk