

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID AUGUST KILLE, SR.,  
Appellant,  
vs.  
DON POAG; ROBERT B. BANNISTER;  
AND THE STATE OF NEVADA,  
Respondents.

No. 72556

**FILED**

MAR 24 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

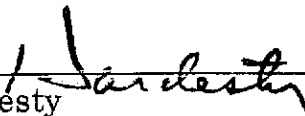
This is a pro se appeal from an order of the district court denying appellant's motion to vacate a summary judgment pursuant to NRCP 60(b). Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

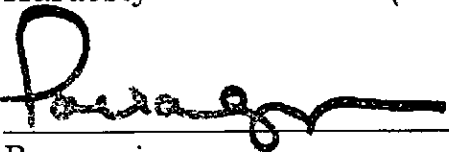
Our review of this appeal indicates that notice of entry of the challenged order was mailed on January 17, 2017. Appellant did not file the notice of appeal, however, until March 6, 2017, well after the expiration of the appeal period prescribed by NRAP 4(b). See NRAP 26(c). An untimely notice of appeal fails to vest jurisdiction in this court. See *Rust v. Clark Cty. School District*, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987).


In the notice of appeal, appellant contends that he did not receive the order denying his motion until February 27, 2017. Thus, he requests this court to excuse the untimely filing of his notice of appeal. We reject appellant's contention. The timely filing of a notice of appeal is mandatory and jurisdictional. See NRAP 4(a)(1); NRAP 26(c); *Mahaffey v. Investor's Nat'l Sec. Co.*, 102 Nev. 462, 463, 725 P.2d 1218, 1218 (1986)

(concluding that "a timely notice of [appeal] is mandatory and jurisdictional"). Thus we lack jurisdiction to consider this appeal and we

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, J.  
Hardesty

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

  
\_\_\_\_\_, J.  
Stiglich

cc: Hon. Jim C. Shirley, District Judge  
David August Kille, Sr.  
Attorney General/Carson City  
Attorney General/Las Vegas  
Pershing County Clerk