

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARSHALL BURGESS, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73088

FILED

JUL 28 2017

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

ORDER DISMISSING APPEAL

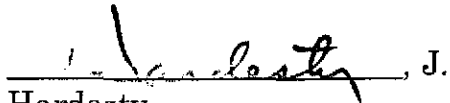
This is a pro se appeal from a district court order denying a motion to correct illegal sentence and denying a motion for county jail time. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Our review of this appeal reveals jurisdictional defects. Specifically, the district court entered its order denying the motions on May 10, 2016. Appellant did not file the notices of appeal, however, until May 15, 2017, well after the expiration of the thirty-day appeal period prescribed by NRAP 4(b). “[A]n untimely notice of appeal fails to vest jurisdiction in this court.” *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Further, no statute or court rule provides for an appeal from a district court order denying a motion for county jail time. *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists). To the extent that appellant’s appeal is in regard to his postconviction petition for a writ of habeas corpus, no decision had been made on the petition when

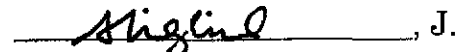
17-25147

appellant filed the appeals on May 15, 2017.¹ Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


Hardesty, J.


Parraguirre, J.


Stiglich, J.

cc: Hon. Janet J. Berry, District Judge
Marshall Burgess, Jr.
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹It appears that the petition was transferred to the Seventh Judicial District Court on November 2, 2016.