

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY HARDNETT,  
Appellant,  
vs.  
BRIAN WILLIAMS, WARDEN,  
Respondent.

No. 74799

**FILED**

APR 16 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

Our initial review of this appeal indicated that the notice of appeal may have been untimely filed. Notice of entry of the district court's order denying appellant's postconviction petition for a writ of habeas corpus was served by mail on November 15, 2017. Thus, the notice of appeal was required to be filed by December 18, 2017. *See* NRS 34.575(1); NRAP 26(c). Appellant's notice of appeal was not filed in the district court until December 21, 2017, three days beyond the appeal period. Under NRAP 4(d) the notice of appeal is deemed timely "if it is delivered to a prison official for mailing on or before the last day for filing." When the prison has a notice of appeal log or another system designed for legal mail, the prisoner must use the logs to receive the benefit of this rule. Because appellant signed his notice of appeal on December 12, 2017, this court directed the attorney general to obtain and transmit a copy of the notice of appeal log. If appellant used any other log maintained by the prison during the relevant time period, the attorney general was to inform this court of that fact and provide a copy of the log used by appellant.

The attorney general has now submitted a response indicating that the prison where appellant is incarcerated maintains a notice of appeal log, but there is no evidence that appellant utilized the log. The attorney general does not indicate that appellant used any other log. Attached to the response is a copy of the notice of appeal log from the relevant time period. The notice of appeal log does not contain any entries from appellant.

Because appellant's notice of appeal was untimely filed and there is no indication that it was delivered to prison officials on or before the last day for filing, we conclude that we lack jurisdiction, see *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994), and we

ORDER this appeal DISMISSED.

Cherry, J.  
Cherry

Parraguirre, J.  
Parraguirre

Stiglich, J.  
Stiglich

cc: Hon. Linda Marie Bell, District Judge  
Larry Hardnett  
Attorney General/Carson City  
Attorney General/Las Vegas  
Eighth District Court Clerk