

IN THE SUPREME COURT OF THE STATE OF NEVADA

BENJAMIN M. HERRICK,

No. 36668

Appellant,

vs.

**FILED**

WARDEN, ELY STATE PRISON, E.K.  
MCDANIEL,

OCT 10 2000

Respondent.

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY: *J. Richards*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Our review of this appeal indicates that the district court entered its order denying appellant's petition on June 28, 2000. The district court served notice of entry of that order on appellant on June 28, 2000. Appellant did not file the notice of appeal, however, until August 24, 2000, well after the expiration of the thirty-day appeal period prescribed by NRS 34.575. An untimely notice of appeal fails to vest jurisdiction in this court. See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994). Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal dismissed.

*Shearing* J.  
Shearing  
*Agosti* J.  
Agosti  
*Leavitt* J.  
Leavitt

cc: Hon. Brent T. Adams, District Judge  
Attorney General  
Washoe County District Attorney  
Benjamin M. Herrick  
Washoe County Clerk