

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT STEPHEN JACKSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75493

FILED

JUN 22 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from a district court order denying motion to correct illegal sentence. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

This court's preliminary review of this appeal revealed a potential jurisdictional defect. Specifically, appellant's notice of appeal was due on March 22, 2018. *See* NRAP 4(b); *Edwards v. State*, 112 Nev. 704, 709, 918 P.2d 321, 325 (1996). Appellant's notice of appeal, however, was not filed in the district court until March 26, 2018, four days beyond the relevant appeal period. "[A]n untimely notice of appeal fails to vest jurisdiction in this court." *Lozada v. State*, 110 Nev. 349, 332, 871 P.2d 944, 946 (1994).

Because appellant dated his notice of appeal March 20, 2018, which is within the prescribed appeal period, this court entered an order directing the attorney general to obtain and transmit to the clerk of this court a certified copy of the notice of appeal log maintained at the prison indicating the actual date upon which appellant delivered to a prison official his notice of appeal. *See Kellogg v. Journal Communications*, 108 Nev. 474, 477, 835 P.2d 12, 13 (1992) (holding that a notice of appeal is deemed "filed" when it is delivered to a prison official). The attorney general has responded

and informs this court that the notice of appeal log contains no entries from appellant during the relevant time period, and that appellant's financial transaction account contains no transactions for legal postage that "correspond with the date the notice of appeal was purportedly signed or mailed."<sup>1</sup> It is therefore impossible to determine when appellant mailed his notice of appeal to the district court. Because there is no record that appellant timely delivered his notice of appeal to a prison official, the March 26, 2018, date controls. Appellant's notice of appeal was untimely filed, we conclude that we lack jurisdiction, and we

ORDER this appeal DISMISSED.<sup>2</sup>

\_\_\_\_\_  
Cherry, J.  
Cherry

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

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

cc: Robert Stephen Jackson  
Attorney General/Carson City  
Attorney General/Las Vegas  
Clark County District Attorney  
Eighth District Court Clerk

---

<sup>1</sup>Contrary to the attorney general's assertion, NRAP 4(b) does not provide for an additional 3 days for mailing on appeal from an order denying a motion to correct an illegal sentence, rather the notice of appeal must be filed within 30 days after the date on which the judgment was entered. *See id.*; *see also Edwards v. State*, 112 Nev. 704, 709, 918 P.2d 321, 325 (1996).

<sup>2</sup>We deny as moot appellant's motion to enlarge time, filed on April 17, 2018, and the motion to stay notice of appeal filed on June 18, 2018.