

IN THE SUPREME COURT OF THE STATE OF NEVADA

JULIO BERNARDO SIRE-ARIAS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36757

FILED

NOV 22 2000

BY *[Signature]*
JANETTE A. GLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction. The judgment was filed on August 1, 2000. The notice of appeal was filed on September 12, 2000, after the thirty-day appeal period prescribed by NRAP 4(b).


On September 28, 2000, this court ordered counsel for appellant to show cause why this appeal should not be dismissed. On October 31, 2000, counsel for appellant filed a response. In her response, counsel for appellant concedes that there is no official record of appellant's notice of appeal in the prison mail log.

"[A] notice of appeal submitted by a prisoner acting in proper person must be deemed 'filed' for purposes of determining timeliness on the date it is delivered into the hand of a prison official." *Kellogg v. Journal Communications*, 108 Nev. 474, 477, 835 P.2d 12, 13 (1992). Nothing in appellant's response demonstrates that the notice of appeal was delivered into the hands of a prison official on or before August 31, 2000, the last day appellant's notice of appeal could have been timely filed pursuant to NRAP 4(b).


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, appellant having

failed to establish that his notice of appeal was timely filed, we conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal dismissed.


_____, C.J.
Rose


_____, J.
Young


_____, J.
Becker
Becker

cc: Hon. Jerome M. Polaha, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk