

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARK ANTHONY BUTCHER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77129

**FILED**

DEC 12 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 motion for an amended judgment of conviction. Fifth Judicial District Court, Esmeralda County; Kimberly A. Wanker, Judge.

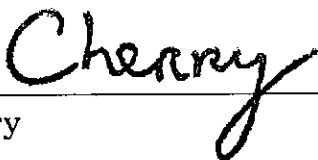
When our initial review of the notice of appeal and documents before this court revealed a potential jurisdictional defect, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the order denying a motion for an amended judgment of conviction was not substantively appealable. To the extent appellant attempted to appeal from the judgment of conviction, the notice of appeal was untimely filed. *See* NRAP 4(b)(1)(A).

In response to our order, appellant asserts that he did not know of the necessity of appealing until after the district court denied his motion to amend the judgment of conviction in accordance with the guilty plea agreement. Thus, he argues, the deadline to file the notice of appeal should


begin to run from the date the order denying the motion was filed—  
September 24, 2018.<sup>1</sup>

A notice of appeal from a judgment of conviction must be filed within 30 days after entry of the judgment of conviction. NRAP 4(b)(1)(A). The timely filing of a notice of appeal is jurisdictional. *Lozada v. State*, 110 Nev. 349, 871 P.2d 944 (1994). Appellant's notice of appeal was untimely filed almost 4 years after entry of the judgment of conviction. And appellant does not demonstrate, or even assert, that the order denying a motion for an amended judgment of conviction is substantively appealable. See *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (the right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists). Accordingly, we conclude that we lack jurisdiction and we

ORDER this appeal DISMISSED.

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

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

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

---

<sup>1</sup>It appears from the documents before this court that appellant's plea agreement allowed him to plead to a lesser charge if he successfully completed probation with an honorable discharge.

cc: Hon. Kimberly A. Wanker, District Judge  
Christopher R. Arabia  
Attorney General/Carson City  
Esmeralda County District Attorney  
Esmeralda County Clerk