

IN THE SUPREME COURT OF THE STATE OF NEVADA

LINDA D. SOUTHWELL,

Appellant,

vs.

DANNY B. SOUTHWELL,

Respondent.

No. 37359

FILED

FEB 22 2001

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

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order denying modification of the parties' visitation schedule and denying modification of the child support amount. The district court's order was entered on November 28, 2000, and notice of entry of the order was served by first-class mail on December 11, 2000. NRAP 4(a)(1) provides that a notice of appeal must be filed within thirty days of service of written notice of entry of the order appealed from. NRAP 26(c) and NRCF 6(e) add three days to this period where service is by mail, as it was in this case. We note that under NRAP 25(c) and NRCF 5(b), service by mail is complete upon mailing; accordingly, the time does not run from the date appellant actually received the written notice of entry.

Under these rules, the thirty-third day fell on Saturday, January 13, 2001. NRAP 26(a) and NRCF 6(a) provide that where the last day falls on a Saturday, Sunday or non-judicial day, then the period runs until the first following day that is not a Saturday, Sunday or non-judicial day. Here, the first following day was Tuesday, January 16, 2001, because Monday, January 15, 2001, was a non-judicial day in honor of Martin Luther King, Jr. Appellant's notice of appeal was not filed until January 22, 2001, almost a week late.

An untimely notice of appeal fails to vest jurisdiction in this court.¹ As appellant's notice of appeal was not filed in a timely manner, it does not confer jurisdiction on this court. Accordingly, we

ORDER this appeal DISMISSED.²

Young, J.
Young

Rose, J.
Rose

Becker, J.
Becker

cc: Hon. Steven E. Jones, District Judge
George D. Frame
Linda D. Southwell
Clark County Clerk

¹Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987).

²Although appellant was not granted leave to appear in proper person, see NRAP 46(b), we have nevertheless considered the proper person documents received from appellant. We note that appellant's application for leave to proceed in forma pauperis, filed with the district court, appears to be moot in light of this order.