

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUAN ANDRES REYES,
Appellant,
vs.
THE STATE OF NEVADA; AND JAMES
DZURENDA, NDOC DIRECTOR,
Respondents.

No. 80337

FILED

MAR 26 2020

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 a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Notice of entry of the order denying appellant's petition was served by mail on November 21, 2019. The notice of appeal was therefore due to be filed by December 26, 2019. See NRS 34.575; NRAP 26(a), (c). Appellant's notice of appeal, however, was not filed in the district court until December 30, 2019, four days past expiration of the relevant appeal period. Because appellant signed his notice of appeal on December 13, 2019, within the prescribed appeal period, this court entered an order directing the attorney general to provide this court with a copy of the notice of appeal log or other mail log maintained by the prison indicating the actual date upon which appellant delivered his notice of appeal to a prison official. See NRAP 4(d) (providing that a notice of appeal filed by an inmate confined in an institution is timely "if it is delivered to a prison official for mailing on or before the last day for filing" and that to receive the benefit of this rule, an inmate must use the notice-of-appeal log or other log designated for legal mail, if such logs are utilized by the institution).

Review of the attorney general's response and the documents attached thereto indicates that appellant did not use the notice-of-appeal log at his institution.¹ Because there appears to be no record that appellant timely delivered his notice of appeal to a prison official, the December 30, 2019, date controls. Appellant's notice of appeal was untimely filed. Accordingly, this court lacks jurisdiction, *see Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994) (“[A]n untimely notice of appeal fails to vest jurisdiction in this court”), and this court

ORDERS this appeal DISMISSED.


_____, J.
Gibbons


_____, J.
Stiglich


_____, J.
Silver

cc: Hon. Tierra Danielle Jones, District Judge
Juan Andres Reyes
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk

¹The record of appellant's internal appointments at his institution indicates that appellant had an appointment at the law library on December 24, 2019, regarding legal mail. But the attorney general represents that there is no documentation verifying that appellant actually submitted any legal mail on that date.