

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIMBERLY ANN MADDOX,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 81499

**FILED**

SEP 04 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is a pro se appeal from a judgment of conviction. This court's preliminary review of this appeal revealed a potential jurisdictional defect. Specifically, the district court entered the judgment of conviction on June 12, 2020. Appellant's notice of appeal was due to be filed in the district court by July 13, 2020. See NRAP 4(b); NRCP 6(a)(1); *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 July 16, 2020, three 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, 352, 871 P.2d 944, 946 (1994).


Appellant signed her notice of appeal on July 12, 2020. If appellant delivered her notice of appeal to a prison official for mailing on or before July 13, 2020, her notice of appeal would be deemed timely filed. *Kellogg v. Journal Comm'ns*, 108 Nev. 474, 477, 835 P.2d 12, 13 (1992); NRAP 4(d). Because appellant did not submit documentation verifying the actual date she may have delivered her notice of appeal to a prison official, this court was unable to determine whether her notice of appeal should be deemed timely. This court directed 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 her notice of appeal to a prison official. If the notice of appeal log did not indicate that appellant delivered the notice of appeal to a prison official, the attorney general was to so inform this court.

The attorney general has now filed a response informing this court that the notice of appeal log does not indicate that appellant “filed or presented” a notice of appeal. Attached to the response is a declaration from the law library supervisor at Florence McClure Women’s Correctional Center. The supervisor represents that her review of the notice of appeal log indicates that appellant did not use the notice of appeal log during June or July of 2020. Because it appears that appellant did not use the notice of appeal log, her notice of appeal may not be deemed timely filed. *See* NRAP 4(d) (“providing that “[i]f the institution has a notice-of-appeal log or another system designed for legal mail, the inmate must use that log or system to receive the benefit of th[e] Rule.”). This court lacks jurisdiction to consider appellant’s untimely notice of appeal and

ORDERS this appeal DISMISSED.

  
\_\_\_\_\_, J.  
Gibbons

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

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Nathan Tod Young, District Judge  
Kimberly Ann Maddox  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk