

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILFORD DENNING,

No. 37574

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

JUN 27 2001

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

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted sexual assault with a minor and one count of attempted lewdness with a child. The judgment of conviction was entered by the district court on February 6, 2001. The notice of appeal was filed on March 9, 2001, after the thirty-day appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court.¹ Because it appeared possible that the notice of appeal was delivered to prison officials within the thirty day period, and may therefore have been timely,² this court ordered counsel for appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

On April 18, 2001, counsel for appellant filed a response to this court's order. 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

¹See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).


²See Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992) (notice of appeal shall be deemed filed on the date it is delivered to a prison official).

01-10799

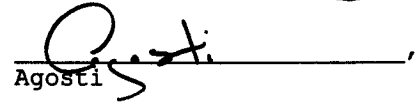
determining timeliness on the date it is delivered into the hand of a prison official."³ Nothing in appellant's response demonstrates that the notice of appeal was delivered into the hands of a prison official on or before March 8, 2001, the last day appellant's notice of appeal could have been timely filed pursuant to NRAP 4(b).

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

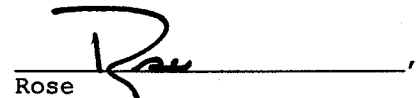
ORDER this appeal dismissed.



Shearing J.



Agosti J.



Rose J.

cc: Hon. Sally L. Loehrer, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk

³Id. at 477, 835 P.2d at 13.