

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY MCGEE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82186

FILED

FEB 18 2021

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

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction and a district court order for revocation of probation and amended judgment of conviction. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Initial review of the notice of appeal revealed a potential jurisdictional defect. The judgment of conviction was entered on December 19, 2019, and the order revoking probation and amended judgment of conviction was entered on October 27, 2020. The notice of appeal was not filed in the district court until December 2, 2020, well after expiration of the 30-day appeal period prescribed by NRAP 4(b) for the judgment of conviction, and 2 days after expiration of the 30-day appeal period for the order revoking probation and amended judgment of conviction. Accordingly, this court ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

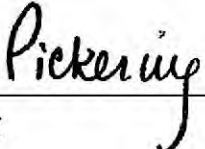
In response, appellant concedes that the notice of appeal was untimely filed but notes that there is a pending motion for reconsideration of revocation of probation in the district court. Appellant has also filed a motion to dismiss this appeal without prejudice. He asserts that the district court will not hear argument on the pending motion for reconsideration because of this appeal. Appellant requests that this appeal be dismissed


without prejudice so that appellant may reinstate this appeal if the district court does not alter the probation revocation.

This court lacks jurisdiction over an untimely notice of appeal.¹ *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Accordingly, this appeal is dismissed. The motion to dismiss this appeal without prejudice is denied. Appellant may file a new notice of appeal if the district court enters a new appealable order. To the extent appellant asks that this appeal be treated as an appeal under NRAP 4(c), the request is denied.

It is so ORDERED.


_____, J.
Cadish


_____, J.
Pickering


_____, J.
Herndon

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 23
Legal Resource Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹To the extent appellant suggests that the motion for reconsideration tolled the time to file the notice of appeal, this contention lacks merit. NRAP 4(b)(3) sets forth the tolling motions in criminal appeals—a motion for reconsideration is not among those motions.