

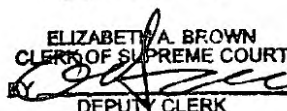
IN THE SUPREME COURT OF THE STATE OF NEVADA

MAURICE OMAR BARNES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85031

FILED

OCT 17 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from a judgment of conviction. Eighth Judicial District Court, Clark County; Tara D. Clark Newberry, Judge.

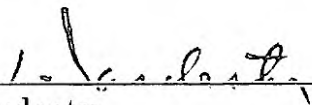
Preliminary review of this appeal revealed a potential jurisdictional defect. The district court entered the judgment of conviction on May 31, 2022. Thus, appellant's notice of appeal was due to be filed in the district court by June 30, 2022. *See* NRAP 4(b)(1)(A) (providing that a notice of appeal must generally "be filed with the district court clerk within 30 days after the entry of the judgment or order being appealed"). However, the notice of appeal was not filed in the district court until July 12, 2022, 12 days after expiration of the 30-day appeal period.

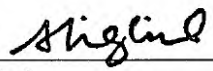
Appellant signed his notice of appeal on June 29, 2022. Pursuant to NRAP 4(d), if appellant delivered his notice of appeal to a prison official for mailing on or before June 30, 2022, and utilized the notice-of-appeal log or other system designed for legal mail, his notice of appeal would be deemed timely filed. Because this court could not determine from the documents before it whether the notice of appeal should be deemed timely, this court ordered the attorney general to obtain and transmit to the clerk of this court certified copies of the notice of appeal log maintained at

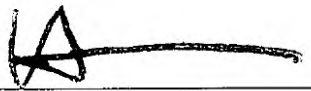
the prison indicating the actual date upon which appellant delivered to a prison official his notice of appeal.

The attorney general has now provided this court with a response. The attorney general's response indicates that High Desert State Prison did not maintain a notice of appeal log during the period in question. However, High Desert did maintain brass slip logs and mailing logs, and appellant's name does not appear on these logs during the period in question. Accordingly, the July 12, 2022, date controls and appellant's notice of appeal was untimely filed and this court lacks jurisdiction to consider this appeal.¹ 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.”). We therefore

ORDER this appeal DISMISSED.


_____, J.
Hardesty


_____, J.
Stiglich


_____, J.
Herndon

¹The envelope in which appellant's notice of appeal was mailed contains a stamp from High Desert State Prison dated July 4, 2022. The envelope appears to have a postmark of July 5, 2022, and appears to have been received by the clerk of the district court on July 11, 2022. However, each of these dates is beyond the June 30, 2022, filing deadline.

cc: Hon. Tara D. Clark Newberry, District Judge
Maurice Omar Barnes
Attorney General/Carson City
Clark County District Attorney
Attorney General/Las Vegas
Eighth District Court Clerk