


IN THE SUPREME COURT OF THE STATE OF NEVADA

AVEENA ADRINA SAENZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85506

FILED

MAR 17 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK


ORDER DISMISSING APPEAL

This is a pro se appeal from a judgment of conviction. Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.

Appellant's judgment of conviction was entered on August 30, 2022. Any notice of appeal was due to be filed in the district court within 30 days thereafter, by September 29, 2022. NRAP 4(b)(1). The notice of appeal was untimely filed in the district court on October 11, 2022. However, because appellant signed the notice of appeal on September 19, 2022, within the appeal period, it appeared possible that appellant's notice of appeal could be deemed timely filed pursuant to NRAP 4(d).

This court ordered 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. If appellant used any other log or system designed for legal mail during the relevant time period, the attorney general was to so inform this court and provide this court with a certified copy of the log or system used by appellant.

In response, the attorney general represents that appellant did not utilize the notice of appeal log during the relevant time period. The attorney general has also provided redacted copies of the notice of appeal log and what is represented to be the outgoing legal mail logs for September and October 2022.¹ Neither the notice of appeal log nor the outgoing legal mail logs indicate that appellant submitted any notice of appeal or legal mail to prison officials during the month of September 2022. Accordingly, the October 11, 2022, date controls, and the notice of appeal was untimely filed. This court lacks jurisdiction to consider an untimely filed notice of appeal. *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994), and
ORDERS this appeal DISMISSED.²


_____, J.
Cadish


_____, J.
Pickering


_____, J.
Bell

¹The copy of the notice of appeal log does not contain any entries after June 23, 2022.

²Appellant has filed pro se letters in which she appears to ask this court to excuse the untimely filing of the notice of appeal due to circumstances beyond her control. This court is unable to extend the time to file a notice of appeal under the circumstances of this case. See NRAP 26(b)(1)(A) (providing that this “court may not extend the time to file a notice of appeal except as provided in Rule 4(c)”; NRAP 4(c) (governing when an untimely appeal from a judgment of conviction may be filed).

cc: Chief Judge, Second Judicial District Court
Hon. Jerome M. Polaha, Senior Judge
Aveena Adrina Saenz
Attorney General/Carson City
Washoe County District Attorney
Attorney General/Las Vegas
Washoe District Court Clerk