


IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFEREY BARNES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 89393

**FILED**

DEC 16 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is a direct appeal from a judgment of conviction.<sup>1</sup> Fourth Judicial District Court, Elko County; Mason E. Simons, Judge.

Respondent has filed a motion to dismiss this appeal based on its determination that the notice of appeal was untimely filed. Appellant, through counsel, has filed a response contending that the notice of appeal was signed and dated by appellant within the appeal period and is therefore timely.

The order challenged by appellant was signed by the district court judge and filed in the district court on August 14, 2024. Therefore, appellant's notice of appeal was required to be filed in the district court on or before Friday, September 13, 2024. *See* NRAP 4(b)(1)(A)(i) (providing that a notice of appeal in a criminal matter must be filed within 30 days after "the entry of the judgment or order being appealed"); NRAP 4(b)(5) (stating that "[a] judgment or order is entered for purposes of this Rule when it is signed by the judge and filed with the clerk"). Appellant's notice

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<sup>1</sup>Although appellant is represented by counsel in this appeal, he filed the notice of appeal pro se while incarcerated at Northern Nevada Correctional Center.

of appeal was not filed in the district court until September 17, 2024, and although appellant dated the notice of appeal September 10, 2024, appellant has not demonstrated that he used the prison's notice-of-appeal log or other system designed for legal mail on that date. See NRAP 4(d) (stating that a notice of appeal filed by an inmate confined in an institution is timely if it is delivered to a prison official for mailing on or before the last day for filing. However, to receive the benefit of this rule, the inmate must have used the prison's notice-of-appeal log or other system designed for legal mail). Accordingly, the notice of appeal is untimely and this court lacks jurisdiction over this appeal. See *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Respondent's motion is granted and this court

ORDERS this appeal DISMISSED.

  
\_\_\_\_\_, J.  
Herndon

  
\_\_\_\_\_, J.  
Lee

  
\_\_\_\_\_, J.  
Bell

cc: Hon. Mason E. Simons, District Judge  
Elko County Public Defender  
Attorney General/Carson City  
Elko County District Attorney  
Elko County Clerk