

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROLAND KELLEY,
Appellant,
vs.
JEREMY BEAN, WARDEN AND THE
STATE OF NEVADA,
Respondents.

No. 90396

FILED

SEP 10 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from an order of the district court denying a petition for writ of habeas corpus and motion to appoint counsel and request for evidentiary hearing. Eighth Judicial District Court, Clark County; Erika L. Mendoza, Judge.

Preliminary review of this appeal revealed a potential jurisdictional defect. The district court served notice of entry of the order denying the petition on February 18, 2025. Thus, appellant's notice of appeal was due to be filed in the district court by March 24, 2025. *See* NRAP 4(b); NRS 34.575(1). However, the notice of appeal was not filed in the district court until April 1, 2025, 7 days after expiration of the relevant appeal period.

Appellant signed his notice of appeal on March 16, 2025. Pursuant to NRAP 4(d), if appellant delivered his notice of appeal to a prison official for mailing on or before March 24, 2025, 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 his notice of appeal to a prison official.

The attorney general has now provided this court with a response. The attorney general's response indicates that appellant did not utilize the notice of appeal log at High Desert State Prison during the period in question. Appellant did use the prison's legal mail log on March 3 and 5, 2025, however, the documents mailed to the district court on those dates are not identified on the log. Nevertheless, these documents were likely not the notice of appeal in the instant matter because that document is dated by appellant on March 16, 2025. Because this court cannot determine the date appellant mailed his notice of appeal to the district court, the April 1, 2025, filing date controls and appellant's notice of appeal was untimely filed. This court lacks jurisdiction to consider this appeal. *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.

Pickering, J.
Pickering

Cadish, J.
Cadish

Lee, J.
Lee

cc: Hon. Erika L. Mendoza, District Judge
Roland Kelley
Attorney General/Carson City
Attorney General/Las Vegas
Clark County District Attorney
Eighth District Court Clerk