

IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON DARRYL WEBBER,

No. 38534

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

NOV 15 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Rehak*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction. Our initial review of this appeal revealed a potential jurisdictional defect. The district court entered the judgment of conviction on August 17, 2001. Appellant did not file the notice of appeal, however, until September 24, 2001, well after the expiration of the thirty-day appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court.¹

Accordingly, on October 16, 2001, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Counsel for appellant responded on October 29, 2001. Counsel represents that he mistakenly believed that a notice of appeal had already been filed when he was appointed to represent appellant on direct appeal.² Counsel further suggests that his filing of a case appeal

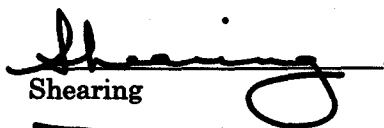
¹See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

²We note that the district court minutes for the confirmation of counsel for appeal on August 15, 2001 indicate that the district court instructed appellate counsel to file a notice of appeal and that counsel indicated that he would do so. That hearing actually occurred two days before the district court entered the judgment of conviction.

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statement and transcript request form within the thirty-day appeal period evidence an intent to appeal within the thirty-day appeal period. NRAP 4(b)(1), however, requires that the notice of appeal be filed within thirty days after entry of the judgment of conviction. Appellant failed to file a notice of appeal within the thirty-day appeal period. We therefore conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.

 J.
Shearing

 J.
Rose

 J.
Becker

cc: Hon. Joseph T. Bonaventure, District Judge
Attorney General
Clark County District Attorney
Wolfson & Glass
Clark County Clerk