

IN THE SUPREME COURT OF THE STATE OF NEVADA

WALTER MARTIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39156

FILED

MAY 15 2002

JAMES H. M. LLOYD
CLERK OF SUPREME COURT

BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of assault with a deadly weapon. The judgment was entered by the district court on December 26, 2001. The proper person notice of appeal was filed on February 1, 2002, after the thirty-day appeal period prescribed by NRAP 4(b).¹ An untimely notice of appeal fails to vest jurisdiction in this court.² Accordingly, on February 21, 2002, this court ordered appellant's counsel to show cause why this appeal should not be dismissed.


On March 15, 2002, counsel for appellant filed a response to this court's order. In the response, counsel for appellant informs this court that no documentation exists that can verify the date that appellant delivered the notice of appeal to officials at the Clark County Detention

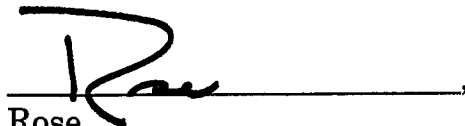
¹Appellant dated the notice of appeal on the day the appeal period expired. Thus, it appeared possible that the notice of appeal was delivered to prison officials within the thirty (30) day period, and might therefore be timely. Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992) (notice of appeal shall be deemed filed on the date it is delivered to a prison official).

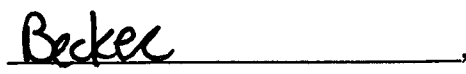
²See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

Center. Nonetheless, from our review of the documentation that does exist, we conclude that appellant did not deliver his notice of appeal to a Clark County Detention Center official within the thirty-day appeal period. We therefore conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.³

 _____, J.
Shearing

 _____, J.
Rose

 _____, J.
Becker

cc: Hon. Sally L. Loehrer, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk

³We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.