

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAWN EISENMAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 40460

FILED

AUG 15 2003

ORDER DISMISSING APPEAL

JANE TE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

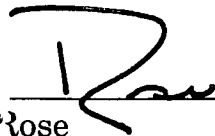
This is an appeal from a judgment of conviction, pursuant to a plea of guilty, of robbery with the use of a firearm, conspiracy to commit robbery with a firearm, possession of a stolen motor vehicle, and possession or manufacture of a short barreled shotgun.

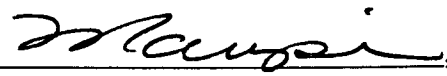
Appellant's proper person notice of appeal was not filed in the district court until October 29, 2002, several days beyond the 30-day appeal period provided in NRAP 4(b). Because appellant had dated his notice of appeal before the expiration of the appeal period, it appeared that appellant's notice of appeal might be deemed timely pursuant to this court's holding in Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992), if in fact appellant had timely delivered it prison officials. Accordingly, this court directed counsel for appellant below to investigate whether any prison logs or other documentation existed that would verify whether or when appellant delivered the notice of appeal to prison officials.


In response, counsel represents that he contacted appropriate prison officials, who advised counsel that no record exists of appellant sending any communications regarding his appeal through prison officials. Thus, it appears that appellant did not utilize the appropriate prison notice of appeal log to verify the date he delivered the notice of appeal for

mailing. Under these circumstances, we conclude that appellant's notice of appeal was untimely filed and that this court lacks jurisdiction to consider this appeal. Accordingly, we hereby

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Jerome Polaha, District Judge  
Robert C. Bell  
Shawn Eisenman  
Attorney General Brian Sandoval/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk