

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH MICHAEL SMITH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42147

FILED

NOV 07 2003

ORDER DISMISSING APPEAL

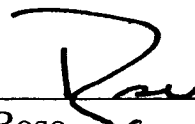
JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK


This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Our review of this appeal indicates that the district court entered its order denying appellant's petition on July 1, 2002. The district court served notice of entry of that order on appellant on July 9, 2002.¹ Appellant did not file the notice of appeal, however, until October 1, 2003, well after the expiration of the thirty-day appeal period prescribed by NRS 34.575. An untimely notice of appeal fails to vest jurisdiction in this

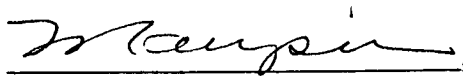
¹Service of notice of entry of the district court's order was performed by the clerk of the district court. The notice of entry specifically informed appellant that he could appeal from the decision of the court and that the notice of appeal must be filed within thirty-three days after the notice was mailed. The notice of entry indicates that appellant was sent a copy through the United States mail.

court.² Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


_____, J.
Rose


_____, J.
Leavitt


_____, J.
Maupin

cc: Hon. John S. McGroarty, District Judge
Joseph Michael Smith
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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