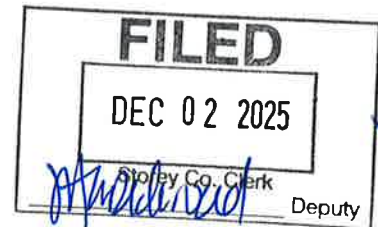


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7 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR THE COUNTY OF STOREY**

9 ROGER EUGENE HILLYGUS,

10 Appellant,

Case No.: 25 CR 00021 1E

11 vs.

12 Dept. No.

13 THE STATE OF NEVADA,

14 Respondent. /

15 **ORDER DISMISSING APPEAL**

16 The above-entitled matter came before the Court on the State of Nevada's Motion to
17 Dismiss Appeal. The Court, having considered the Motion, the Opposition to the Motion to
18 Dismiss Appeal, and the Reply in Support of the Motion to Dismiss Appeal, and all other
19 pleadings and papers on file herein, now issues the following order.

20 The Court finds that appeals from justice court criminal matters are governed by NRS
21 Chapter 189 and the Nevada Rules of Criminal Procedure. Pursuant to N.R.Cr.P. 1, which
22 became effective March 1, 2021, the Nevada Rules of Criminal Procedure supersede and
23 replace all local district court rules concerning criminal actions, including former Local Rule 6
24 referenced by Appellant.

25 N.R.Cr.P. 19(3)(A) requires a defendant appealing a final judgment to file a Request
26 for Hearing within sixty days of filing the Notice of Appeal, in the format prescribed by the
27 rules, as mandated by NRS 189.065. It further requires that the Opening Brief be filed within

28 ///

1 forty-five days of the filing of the Notice of Appeal. The Nevada Supreme Court has long held
2 that the provisions of NRS 189.065 are mandatory, and that failure to comply with the statutory
3 perfection requirements divests the district court of jurisdiction to consider the appeal.
4 *Plankinton v. Fifth Judicial District Court*, 93 Nev. 643 (1977); *Thompson v. First Judicial*
5 *District Court*, Storey County, 100 Nev. 352 (1984).

6 The Notice of Appeal was filed on June 20, 2025. The deadline to file a Request for
7 Hearing was therefore August 19, 2025. No Request for Hearing was filed by that date.
8 Appellant filed an “Application to Confirm Scheduling of Appeal” on August 25, 2025, which
9 was untimely and which did not request that the matter be set for hearing, nor did it comply
10 with the specific Request for Hearing form required by the rules. Even if construed as a request
11 for hearing, it was filed six days beyond the statutory deadline, and the Court has no authority
12 to extend or waive the jurisdictional requirements of NRS 189.065.

13 The Court further finds that Appellant did not file his Opening Brief within forty-five
14 days of the Notice of Appeal. The Opening Brief, due August 4, 2025, was filed on September
15 4, 2025, thirty-one days late and without any motion for extension as required by N.R.Cr.P. 11.
16 The Court rejects Appellant’s argument that alleged transcript delays or lack of notice excused
17 compliance with the statutory deadlines. The justice court timely transmitted the record to the
18 district court pursuant to NRS 189.030(1), and the district court issued a Notice of Filing on
19 June 30, 2025, informing the parties that the record on appeal had been received. Transcript
20 issues are unrelated to the perfection requirements set forth in NRS 189.065 and N.R.Cr.P. 19.
21 As explained in *Sparks v. Bare*, 132 Nev. 426, 431 (2016), it is the appellant’s responsibility to
22 request transcripts that are not already part of the justice court record, and NRS 189.030 does
23 not obligate the justice court to prepare or manage transcript-related issues for the appellant.

24 The Court further finds that equitable estoppel does not provide a basis to disregard the
25 mandatory statutory deadlines. The Nevada Supreme Court has repeatedly held that equitable
26 estoppel generally may not be invoked against the government and cannot be used to avoid
27 statutory jurisdictional requirements, particularly where the Legislature has spoken in clear and
28 mandatory terms. *Pellegrini v. State*, 117 Nev. 860, 877–78 (2001). Appellant cites no

1 authority that would permit equitable principles to confer jurisdiction where the statutory
2 requirements for perfecting an appeal were not met.

3 Based on the foregoing findings, the Court concludes that Appellant failed to perfect
4 his appeal within the sixty-day deadline established by NRS 189.065 and failed to file his
5 Opening Brief within the forty-five-day deadline required by N.R.Cr.P. 19. These requirements
6 are jurisdictional. Because the appeal was not perfected, the Court lacks jurisdiction to proceed
7 on the merits.

8 Accordingly, it is ordered, adjudged, and decreed that the State's Motion to Dismiss
9 Appeal is GRANTED. The appeal is dismissed, and this matter is remanded to the Virginia
10 Township Justice Court for enforcement of the Judgment of Conviction.

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12 DATED this 2nd day of December, 2025

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15 
16 DISTRICT JUDGE
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23

24 Submitted this 1 day of December, 2025.

25
26 By: 

27 Anne M. Langer, Storey County District Attorney
28 201 South C Street/Post Office Box 496, Virginia City, NV
Telephone (775) 847-0964
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on December 2nd, 2025, I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Michael Mee, Esq.
400 S 4th Street #500
Las Vegas, NV 89101

Anne M. Langer, District Attorney
Storey County District Attorney
Post Office Box 496
Virginia City, NV 89440



Julie Harkleroad
Judicial Assistant, Dept. 1