

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY SCOTT HERMANSKI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65616

FILED

AUG 13 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

*ORDER DIRECTING ATTORNEY GENERAL TO OBTAIN AND
TRANSMIT CERTIFIED COPY OF NOTICE OF APPEAL LOG OR
OTHER LOG MAINTAINED BY THE PRISON*

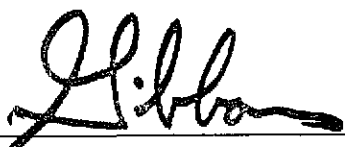
This is a proper person appeal from an order of the district court denying appellant's motion to vacate sentence.

This court's preliminary review of this appeal revealed a potential jurisdictional defect. Specifically, the district court entered the order denying appellant's motion on March 31, 2014. Appellant's notice of appeal was due on April 30, 2014. *See* NRAP 4(b), *Edwards v. State*, 112 Nev. 704, 709, 918 P.2d 321, 325 (1996). Appellant's notice of appeal, however, was not filed in the district court until May 6, 2014, six days beyond the relevant appeal period. "[A]n untimely notice of appeal fails to vest jurisdiction in this court." *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Appellant signed his notice of appeal on April 29, 2014. Under this court's holding in *Kellogg v. Journal Communications*, if appellant delivered his notice of appeal to a prison official for mailing on or before April 30, 2014, his notice of appeal would be deemed timely filed. 108 Nev. 474, 477, 835 P.2d 12, 13 (1992) (holding that a notice of appeal is deemed "filed" when it is delivered to a prison official); *see also* NRAP

4(d). Therefore, on June 4, 2014, this court directed the attorney general, within 30 days from the order, to obtain and transmit to the clerk of this court copies of any logs maintained by the Department indicating the date of delivery, and if no logs indicate delivery, the attorney general was to inform this court of that fact. To date, this court has not received a response from the attorney general.

Accordingly, this court again directs the attorney general within 30 days from the date of this order to obtain and transmit a certified copy of the notice of appeal log maintained at the prison indicating the actual date upon which appellant delivered to a prison official his notice of appeal.¹ If the notice of appeal log does not indicate that appellant delivered his notice of appeal to a prison official, the attorney general is to inform this court. If appellant used any other log maintained by the prison during the relevant time period, the attorney general is to inform the court of this fact and provide this court with a certified copy of the log used by appellant.

It is so ORDERED.

 , C.J.

cc: Gregory Scott Hermanski
Attorney General/Carson City
Clark County District Attorney

¹Nevada Department of Corrections Administrative Regulation 722.07(1) provides that "[e]ach institution and facility will maintain a permanent Notice of Appeals Log."