

# NACJ

Nevada Attorneys for Criminal Justice

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March 21, 2024

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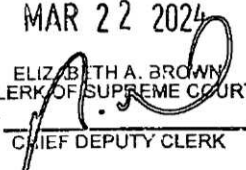
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FILED

MAR 22 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
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*Sent via email to [NVSCClerk@nvcourts.nv.gov](mailto:NVSCClerk@nvcourts.nv.gov)*

Re: ADKT 0580

NRAP 25: Proposed language for "Mailbox Rule" as it relates to incarcerated persons.

In a prior letter regarding proposed changes to Nevada Rules of Appellate Procedure (NRAP) set forth by ADKT 0580, NACJ expressed concerns about the "Mailbox Rule" set forth by proposed NRAP Rule 25. Specifically, the concern was that NRAP 25, as proposed, did not contain a specific provision related to the timeliness of filings by incarcerated individuals. The letter pointed out that NRAP Rule 4(d) sets forth such a specific provision, and that similar language could easily be incorporated into NRAP Rule 25.

At the March 7<sup>th</sup>, 2024, public hearing for ADKT 0580, Justice Pickering asked if I, Scott Coffee, would draft additional language regarding the "Mailbox Rule" for NRAP Rule 25 to address the concerns expressed by the NACJ letter. I agreed.

In reviewing NRAP 4 and NRAP 25, the simplest and most consistent solution seems to be the addition of a provision to NRAP Rule 25 that mirrors the language of NRAP 4(d).

NRAP 4(d), as proposed by ADKT 0580, reads:

*(d) Appeal by an inmate confined in an institution. If an inmate confined at an institution files a notice of appeal in either a civil or a criminal case, the notice is timely if it is delivered to a prison official for mailing on or before the last day of filing. If the institution has a notice-of-appeal log or another system designed for legal mail, the inmate must use that log or system to take advantage of the benefit of this Rule.*

If similar language were added to NRAP 25 (a)(2)(iv), as set forth below in blue, the “Mailbox Rule” would read as follows:

## **RULE 25. FILING AND SERVICE**

\* \* \*

### **(a)(2) Filing: Method and Timeliness**

(A) Nonelectronic Filing. A paper not filed electronically is timely filed if, on or before the last day for filing, it is:

(i) delivered to the clerk in person in Carson City;

(ii) mailed to the clerk at the Supreme Court of Nevada, 201 South Carson Street, Suite 201, Carson City, Nevada 89701-4702 by first-class mail, or other class of mail that is at least expeditious, postage prepaid;

(iii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 days;

(iv) deposited in the Supreme Court drop box as provided in Rule 25(a)(3); or

(v) transmitted directly to the clerk by facsimile transmission as provided in Rule 25(a)(4); or

(vi) filed by an inmate confined at an institution, delivered to a prison official for mailing on or before the last day of filing. If the institution has a legal mail log or another system designed for legal mail, the inmate must use that log or system to take advantage of the benefit of this Rule.

I have had the proposed language reviewed by the concerned NACJ constituents and they agree that it solves the concerns raised by our previous correspondence.

Once again, NACJ appreciates being included in this process and wishes to congratulate all the parties involved in updating the Nevada Rules of Appellate Procedure.

Great work.

Very truly yours,

*/s/ Scott Coffee*

Scott Coffee

Nevada Attorneys for Criminal Justice Liaison

Re: Proposed Changes to NRAP Via AKDT 0580