


IN THE SUPREME COURT OF THE STATE OF NEVADA

JARELL WASHINGTON, A/K/A
JARRELL WASHINGTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85875

FILED

FEB 24 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order denying appellant's postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

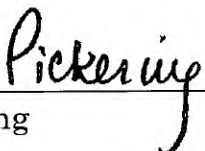
The district court entered its order denying appellant's petition on November 8, 2022, and the clerk of the district court served notice of entry of that order on November 14, 2022. Appellant's notice of appeal was therefore due by December 19, 2022. *See* NRAP 4(b); *Edwards v. State*, 112 Nev. 704, 709, 918 P.2d 321, 325 (1996). The notice of appeal was not filed in the district court until December 21, 2022, two days beyond the relevant appeal period. However, appellant signed his notice of appeal on November 20, 2022. Therefore, this court entered an order directing the attorney general to obtain and transmit to this court the prison's notice of appeal log indicating the actual date upon which appellant delivered his notice of appeal to a prison official. *See* NRAP 4(d); *Kellogg v. Journal Communications*, 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).


The attorney general has responded and informs this court that although appellant did request postage for a notice of appeal on December 4, 2022, appellant did not use the notice of appeal log, and there is no record

that appellant delivered any documents to a prison official or mailed any documents within the relevant time frame. When the prison has a notice of appeal log or another system designed for legal mail, the prisoner must use the logs to receive the benefit of the rule set forth in NRAP 4(d). As there is no evidence that appellant timely delivered the notice of appeal to a prison official or used the notice of appeal log, the December 21, 2022, date controls. “[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), *abrogated on other grounds by Rippo v. State*, 134 Nev. 411, 423 P.3d 1084 (2018). This court lacks jurisdiction, and therefore

ORDERS this appeal DISMISSED.


_____, J.
Cadish


_____, J.
Pickering


_____, J.
Bell

cc: Hon. Tierra Danielle Jones, District Judge
Jarell Washington
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk