

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD D. BRITTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46567

FILED

NOV 09 2006

ORDER DISMISSING APPEAL

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

This is an appeal from an order of the district court denying appellant Donald D. Britton's motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

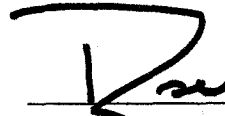
This court's preliminary review of this appeal revealed a jurisdictional defect. Specifically, the district court entered an order denying appellant's motion to correct on December 21, 2004. The district court also entered another order denying the same motion on November 22, 2005. The notice of appeal, however, was not filed until January 3, 2006, after the expiration of the thirty-day appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court.¹


Accordingly, on September 19, 2006, this court ordered counsel for appellant to show cause why this appeal should not be dismissed. On October 31, 2006, counsel filed a response to this court's order. After

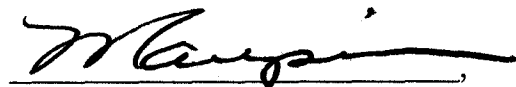
¹See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

reviewing counsel's response and the record on appeal,² we conclude that we lack jurisdiction to entertain this appeal and we

ORDER this appeal DISMISSED.


_____, C.J.
Rose


_____, J.
Gibbons


_____, J.
Maupin

cc: Eighth Judicial District Court Dept. 16, District Judge
Brian R. Morris
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

²Cause appearing, we grant appellant's second motion for an extension of time to respond to this court's order to show cause.