

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL S. PORTER,  
Appellant,

vs.

CARL LEE EDERINGTON; AND SAM  
HARDING A/K/A SAMUEL A.  
HARDING,  
Respondents.

No. 59450

**FILED**

DEC 04 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY H. Lindeman  
DEPUTY CLERK

ORDER DISMISSING APPEAL

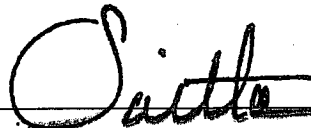
This is a proper person appeal from a district court order granting a motion to dismiss in a tort action. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

Our review of the documents transmitted to this court pursuant to NRAP 3(g) and NRAP 10(a)(1) reveals a jurisdictional defect. Specifically, appellant failed to timely file his notice of appeal.

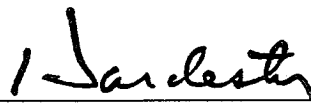
After the district court granted respondent Ederington's motion to dismiss, it ruled on an NRCP 59(e) motion that appellant had filed. Notice of entry of the order denying appellant's NRCP 59(e) motion was filed in the district court on August 22, 2011, and was served on appellant via U.S. mail that same day. Because service was by mail, appellant had 33 days from August 22, or until September 26, 2011, to file his notice of appeal. See NRAP 4(a)(4); NRAP 26(c). Appellant did not file his notice of appeal until October 14, 2011, which is outside the 33-day window. Since appellant's notice of appeal was untimely filed, we lack jurisdiction to consider this appeal. See Healy v. Volkswagenwerk, 103

Nev. 329, 331, 741 P.2d 432, 433 (1987) (noting that an untimely notice of appeal fails to vest jurisdiction in this court). Accordingly, we

ORDER this appeal DISMISSED.<sup>1</sup>

\_\_\_\_\_, J.  
Saitta

\_\_\_\_\_, J.  
Pickering

\_\_\_\_\_, J.  
Hardesty

cc: Hon. Jerry A. Wiese, District Judge  
Daniel S. Porter  
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas  
Eighth District Court Clerk

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<sup>1</sup>In light of this order, appellant's request for judicial notice is denied as moot.