

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
MONIQUE NICOLE LOPEZ,
Respondent.

No. 78280

FILED

APR 26 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting in part, and denying in part a motion to suppress evidence. Fourth Judicial District Court, Elko County; Nancy L. Porter, Judge.

When appealing from a district court order regarding a motion to suppress, two separate notices of appeal must be filed in order to vest jurisdiction in this court. NRS 177.015(2); *State v. Loyle*, 101 Nev. 65, 692 P.2d 516 (1985). The first notice of appeal must be filed in the district court within two judicial days of the ruling by the district court and the second notice of appeal must be filed with this court within five judicial days of the district court's ruling. Because appellant failed to file the second notice of appeal with this court within the five-day appeal period, this court entered an order directing appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

In response, appellant argues that it relied on a conversation with an employee in the clerk's office of this court in regard to a different case. Appellant argues that the clerk's office employee informed them, in the other case, that the five-day period for filing the notice of appeal in this court did not begin to run "until the case was opened by the Supreme Court."

However, appellant's internal notes of the conversation with the clerk's office employee indicate that the conversation involved the statement of good cause, required to be filed by NRS 177.015(2), not the filing period for the notice of appeal. Appellant states that it was "aware of the obligations of NRS 177.015," and was "prepared" to file the notice of appeal earlier, if not for the conversation with the clerk's office employee. However, appellant never made an attempt to file the notice of appeal in this court prior to the expiration of the five-day appeal period, despite being aware of the filing obligations. This court may not extend the time to file a notice of appeal. NRAP 26(b)(1). Because appellant did not timely file the second notice of appeal, this court concludes that it lacks jurisdiction over this appeal, *see Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994) ("an untimely notice of appeal fails to vest jurisdiction in this court"), and

ORDERS this appeal DISMISSED.

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

Cadish, J.
Cadish

cc: Hon. Nancy L. Porter, District Judge
Attorney General/Carson City
Elko County District Attorney
Elko County Public Defender
Elko County Clerk