

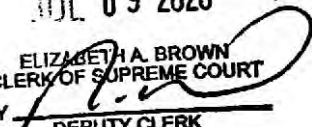
IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH TORRES, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 81065

**FILED**

JUL 09 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is a pro se appeal from an order denying appellant's motion to correct a clerical error in his judgment of conviction. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

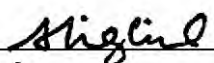
This court's preliminary review of this appeal revealed a potential jurisdictional defect. Specifically, appellant's notice of appeal was due on April 13, 2020. See NRAP 4(b). Appellant's notice of appeal, however, was not filed in the district court until April 20, 2020, seven days beyond the relevant appeal period. "[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).

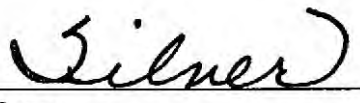
Under this court's holding in *Kellogg v. Journal Communications*, if appellant delivered his notice of appeal to a prison official for mailing on or before April 13, 2020, his notice of appeal would be deemed timely filed. 108 Nev. 474, 477, 835 P.2d 12, 13 (1992) (holding that a notice of appeal is deemed "filed" when it is delivered to a prison official). Because appellant signed his notice of appeal on April 11, 2020, this court directed the attorney general to obtain and transmit to this court a certified copy of the notice of appeal log or any other log maintained at the prison indicating the actual date appellant delivered the notice of appeal to a prison official.

The attorney general has responded and provides this court with the notice of appeal log and appellant's financial transaction records from the Northern Nevada Correctional Center (NNCC) where appellant is housed. The log does not reflect any entry under appellant's name or identification number. The NNCC does not maintain a separate legal mail log. Appellant's financial transaction records do not reflect any transactions to indicate any postage within the relevant time frame. NRAP 4(d) provides that an inmate confined in an institution must use the notice of appeal log or other system designed for legal mail to receive the benefit of the rule. Because there is no record that appellant timely delivered his notice of appeal to a prison official, the April 20, 2020, date controls. Appellant's notice of appeal was untimely filed, this court concludes that it lacks jurisdiction, and

ORDERS this appeal DISMISSED.

  
Gibbons

  
Stiglich, J.

  
Silver, J.

cc: Hon. Connie J. Steinheimer, District Judge  
Joseph Torres, Jr.  
Attorney General/Carson City  
Attorney General/Las Vegas  
Washoe County District Attorney  
Washoe District Court Clerk