

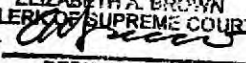
IN THE SUPREME COURT OF THE STATE OF NEVADA

NATHANIEL GRAVES,
Appellant,
vs.
THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
AND T. THOMAS, WARDEN,
Respondents.

No. 81762

FILED

NOV 02 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from a district court order denying appellant's postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

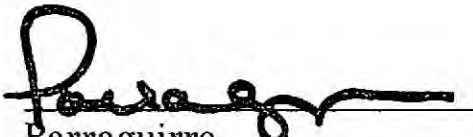
This court's preliminary review of this appeal revealed a potential jurisdictional defect. Specifically, the district court entered the order denying appellant's petition on July 8, 2020, and notice of entry of that order was served on July 15, 2020. Appellant's notice of appeal was due to be filed in the district court by August 17, 2020. See NRAP 4(b); NRCP 6(a)(1); NRS 34.575. Appellant's notice of appeal, however, was not filed in the district court until September 3, 2020, well 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).

Appellant signed his notice of appeal on August 17, 2020. If appellant delivered his notice of appeal to a prison official for mailing on or before August 17, 2020, his notice of appeal would be deemed timely filed. *Kellogg v. Journal Comm'ns*, 108 Nev. 474, 477, 835 P.2d 12, 13 (1992); NRAP 4(d). Because appellant did not submit documentation verifying the actual date he may have delivered his notice of appeal to a prison official,

this court was unable to determine whether his notice of appeal should be deemed timely. This court directed the attorney general to obtain and transmit to the clerk of this court a certified copy of the notice of appeal log maintained at the prison indicating the actual date upon which appellant delivered his notice of appeal to a prison official. If the notice of appeal log did not indicate that appellant delivered the notice of appeal to a prison official, the attorney general was to so inform this court.

The attorney general has responded and informs this court that after investigation, communication with the prison librarian, and a review of the log books, there are no entries for appellant in the prison mail logs that would support a finding that the notice of appeal was timely delivered to a prison official or timely mailed from the prison. *See* NRAP 4(d) ("providing that "[i]f the institution has a notice-of-appeal log or another system designed for legal mail, the inmate must use that log or system to receive the benefit of th[e] Rule."). Accordingly, appellant has not demonstrated that he timely submitted his notice of appeal. This court lacks jurisdiction and therefore

ORDERS this appeal DISMISSED.

 J.
Parraguirre

 J.
Hardesty

 J.
Cadish

cc: Hon. Linda Marie Bell, Chief Judge
Nathaniel Graves
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk