

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEITH B. WARD,  
Appellant,  
vs.  
THE STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS,  
Respondent.

No. 82761

FILED

MAY 26 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is a pro se appeal from a district court order dismissing a postconviction petition for writ of habeas corpus. First Judicial District Court, Carson City; James E. Wilson, Judge.

Notice of entry of the order dismissing appellant's petition was served by mail on March 1, 2021. The notice of appeal was therefore due to be filed by April 5, 2021. See NRS 34.575; NRCP 6; NRAP 26(a), (c). Appellant's notice of appeal, however, was not filed in the district court until April 8, 2021, three days past the expiration of the relevant appeal period. Because appellant signed his notice of appeal on March 31, 2021, within the prescribed appeal period, this court entered an order directing the attorney general to provide this court with a copy of the notice of appeal log or other system designed for legal mail maintained by the prison indicating the actual date upon which appellant delivered his notice of appeal to a prison official. See NRAP 4(d) (providing that a notice of appeal filed by an inmate confined in an institution is timely "if it is delivered to a prison official for mailing on or before the last day for filing" and that to receive the benefit of this rule, an inmate must use the notice-of-appeal log or other system designed for legal mail, if such a log or system is utilized by the institution).

Review of the attorney general's response and the documents attached thereto indicates that appellant did not use the notice-of-appeal log at his institution. It appears that appellant used the legal mail log to mail a document to the First Judicial District Court on April 6, 2021, however, the log does not reveal what the document was. Further, the April 6, 2021, date is outside the deadline for filing the notice of appeal. Because there appears to be no record that appellant timely delivered his notice of appeal to a prison official, the April 8, 2021, date controls. Appellant's notice of appeal was untimely filed, and this court lacks jurisdiction. See *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994) (“[A]n untimely notice of appeal fails to vest jurisdiction in this court”). This court

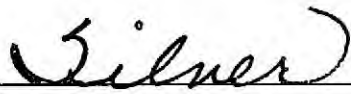
ORDERS this appeal DISMISSED.



Parraguirre

 , J.

Stiglich

 , J.

Silver

cc: Hon. James E. Wilson, District Judge  
Keith B. Ward  
Attorney General/Carson City  
Attorney General/Las Vegas  
Carson City Clerk