

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID HOWELL,  
Appellant,  
vs.  
RENEE BAKER, WARDEN,  
Respondent.

No. 83015

FILED

JUL 13 2021

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


*ORDER DISMISSING APPEAL*

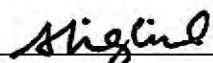
This is a pro se appeal from an order denying a postconviction petition for a writ of habeas corpus. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

Notice of entry of the order dismissing appellant's petition was served on appellant on April 2, 2021. The notice of appeal was therefore due to be filed by May 6, 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 May 26, 2021, well past the expiration of the relevant appeal period. Because appellant signed his notice of appeal on May 6, 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 declaration of the prison law librarian who maintains the notice of appeal log indicates that appellant did not use the notice-of-appeal log at his institution. Because there appears to be no record that appellant timely delivered his notice of appeal to a prison official, the May 26, 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.

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Stiglich

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Jim C. Shirley, District Judge  
David Howell  
Attorney General/Carson City  
Clerk of the Court/Court Administrator