

IN THE SUPREME COURT OF THE STATE OF NEVADA

GERALD LEE WHATLEY, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85077

FILED

SEP 22 2022

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

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

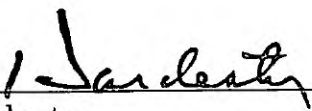
This court previously ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the notice of appeal was untimely filed. In response, appellant does not dispute that the notice of appeal was untimely filed. Instead, counsel for appellant notes that she filed the transcript request form within the time to file a notice of appeal. Relying on *Lemmond v. State*, 114 Nev. 219, 220, 954 P.2d 1179, 1179 (1998), and *Forman v. Eagle Thrifty Drugs & Markets, Inc.*, 89 Nev. 533, 536, 516 P.2d 1234, 1236 (1973), *overruled on other grounds by Garvin v. Ninth Judicial Dist. Court*, 118 Nev. 749, 59 P.3d 1180 (2002), counsel asks that this court construe the transcript request form as a deficient notice of appeal.

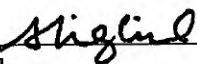
Pursuant to *Lemmond* and *Forman*, this court will not dismiss an appeal due to a technical defect in the notice of appeal if an intent to appeal from a judgment can be reasonably inferred from the notice of appeal

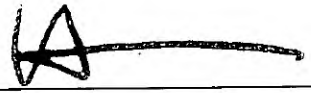
and the respondent is not misled. This court declines to infer an intent to appeal from a transcript request form.¹

“[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). Accordingly, this court lacks jurisdiction and

ORDERS this appeal DISMISSED.

, J.
Hardesty

, J.
Stiglich

, J.
Herndon

cc: Hon. Eric Johnson, District Judge
Leslie A. Park
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹It is noted that appellant has not provided this court with a copy of the form.