

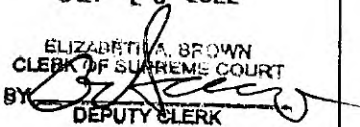
IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAWN TOSH HARTZELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 84820

FILED

SEP 26 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is an appeal from a judgment of conviction. Tenth Judicial District Court, Churchill County; Thomas L. Stockard, Judge.

Deputy Attorney General Jaimie Stilz has filed a notice of appearance as counsel for respondent. The clerk of this court shall add Ms. Stilz as counsel of record for respondent.

Preliminary review of this appeal revealed a potential jurisdictional defect. The district court entered the judgment of conviction on April 7, 2022. Thus, appellant's notice of appeal was due to be filed in the district court by May 9, 2022. *See* NRAP 4(b)(1)(A) (providing that a notice of appeal must generally "be filed with the district court clerk within 30 days after the entry of the judgment or order being appealed"). However, the notice of appeal was not filed in the district court until June 2, 2022, 24 days after expiration of the 30-day appeal period.

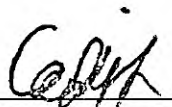
Appellant dated his notice of appeal May 5, 2022. Pursuant to NRAP 4(d), if appellant delivered his notice of appeal to a prison official for mailing on or before May 9, 2022, and utilized the notice-of-appeal log or other system designed for legal mail, his notice of appeal would be deemed timely filed. Because this court could not determine from the documents before it whether the notice of appeal should be deemed timely, this court

ordered the attorney general to obtain and transmit to the clerk of this court certified copies of the notice of appeal log maintained at the prison indicating the actual date upon which appellant delivered to a prison official his notice of appeal.

The attorney general has now provided this court with a response and an affidavit from the law librarian and custodian of records at Lovelock Correctional Center. These documents indicate Lovelock Correctional Center did not maintain a notice of appeal log from July 2021 through July 2022, but did maintain an "other system designed for legal mail," namely a brass slip log and outgoing mail log during that time period. However, there were no entries by appellant on those logs from May 2022 to June 2, 2022. Accordingly, the June 2, 2022, date controls and appellant's notice of appeal was untimely filed, thus this court lacks jurisdiction to consider this appeal. *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."). We therefore

ORDER this appeal DISMISSED.

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

  
\_\_\_\_\_, J.  
Cadish

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. Thomas L. Stockard, District Judge  
Shawn Tosh Hartzell  
Attorney General/Carson City  
Churchill County District Attorney/Fallon  
Churchill County Clerk