


IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTIAN TYLOR KACKLEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85713

FILED

FEB 03 2023

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.

Preliminary review of this appeal revealed a jurisdictional defect. Specifically, it appeared the notice of appeal was untimely filed. The judgment of conviction was entered on October 11, 2022; the notice of appeal was therefore due by November 10, 2022. *See* NRAP 4(b)(1)(A). The notice of appeal in this matter was filed on November 14, 2022, 4 days after the expiration of the prescribed 30-day appeal period. *See* NRAP 4(b)(1)(A). Accordingly, this court ordered appellant's counsel to show cause why this appeal should not be dismissed for lack of 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."). In response to the show cause order, appellant's counsel explains that while the judgment was entered on October 11, 2022, the district court clerk mailed a "Declaration of Service" of the judgment to appellant's counsel on October 12, 2022. Counsel timed the notice of appeal from that "notice of the judgment of conviction," Because November 11, 2022, was a federal holiday, counsel filed the notice of appeal on November 14, 2022, the next business day. Counsel argues

that the time limit of NRAP 4(b)(1)(A) conflicts with the provisions of NRS chapter 177, which do not provide time limits on filing appeals, and notes that NRAP 1(b) provides that “[t]hese Rules shall not be construed to extend or limit the jurisdiction of the Supreme Court or the Court of Appeals as established by law.” Accordingly, counsel proposes that the notice of appeal may be construed as timely from the October 12, 2022, “notice of entry.”

This court cannot “extend the time to file a notice of appeal except as provided in NRAP 4(c).” NRAP 26(b)(1)(A). NRAP 4(b)(1)(A) provides that “the notice of appeal by a defendant or petitioner in a criminal case shall be filed with the district court clerk within 30 days after the entry of the judgment or order being appealed.” An order is “entered” when it is “signed by the judge and filed with the clerk,” not when the clerk elects to send a “declaration of service.” These rules do not conflict with chapter 177. The judgment was entered on October 11, 2022, and the time for filing the notice of appeal began to run from that date. The notice of appeal was due November 10, 2022.

Because the notice of appeal was not timely filed, this court lacks jurisdiction, and therefore

ORDERS this appeal DISMISSED.



_____, J.

Herndon



_____, J.

Lee



_____, J.

Parraguirre

cc: Hon. Thomas L. Stockard, District Judge
Churchill County Public Defender
Attorney General/Carson City
Churchill County District Attorney/Fallon
Churchill County Clerk