

IN THE SUPREME COURT OF THE STATE OF NEVADA

MYTIARA THOMPSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 86563

**FILED**

JUN 05 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is a direct appeal from a judgment of conviction subject to this court's fast track provisions in NRAP 3C. Eighth Judicial District Court, Clark County; Tara D. Clark Newberry, Judge.

Appellant filed the notice of appeal pro se.<sup>1</sup> The judgment of conviction was entered on March 31, 2023, and the notice of appeal was therefore due by May 1, 2023. *See* NRAP 4(b). However, the notice of appeal was not filed in the district court until May 10, 2023, 9 days beyond the relevant appeal period. "[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). Because it appeared the notice of appeal was untimely filed, this court directed appellant's counsel to show cause why the appeal should not be dismissed for lack of jurisdiction.

Appellant's counsel has responded and informs this court that, after investigation, it was determined that the Clark County Detention Center, where appellant was housed, does not maintain a notice of appeal

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<sup>1</sup>The day after the pro se notice of appeal was filed, appellant's trial counsel, attorney Daniel Jenkins of the Clark County Public Defender's Office, filed a notice of appearance on behalf of appellant. *See* NRAP 3C(b); NRAP 46A(b)(1).

log, and there is no record that appellant timely delivered the notice of appeal to a jail official. See NRAP 4(d); see also *Kellogg v. Journal Commc'ns*, 108 Nev. 474, 477, 835 P.2d 12, 13 (1992) (holding that a notice of appeal is deemed "filed" when it is delivered to a prison official). It is appellant's burden to demonstrate this court's jurisdiction. See *Moran v. Bonneville Square Assocs.*, 117 Nev. 525, 527, 25 P.3d 898, 899 (2001). Appellant's counsel concedes that he cannot demonstrate the notice of appeal was timely filed. Thus, the May 10, 2023, filing date controls. This court concludes that it lacks jurisdiction and

ORDERS this appeal DISMISSED.



Herndon

J.



Lee

J.



Parraguirre

J.

cc: Hon. Tara D. Clark Newberry, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk