

IN THE SUPREME COURT OF THE STATE OF NEVADA

DOMINIQUE TRAVELL HOUSTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86168

FILED

JUN 09 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from a district court order dismissing a postconviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

The order challenged on appeal was entered on December 13, 2022, and notice of entry of the order was served on appellant, via mail, on December 14, 2022. Any notice of appeal was due to be filed in the district court by January 17, 2023. *See* NRS 34.575(1); NRCPC 6(a)(1), (d). But the notice of appeal was untimely filed in the district court on February 27, 2023.

Because appellant dated the notice of appeal January 16, 2023, within the appeal period, it appeared possible that appellant's notice of appeal could be deemed timely filed pursuant to NRAP 4(d). Therefore, this court ordered the attorney general to obtain and transmit to the clerk of this court a certified copy of the notice of appeal log maintained at the prison indicating the actual date upon which appellant delivered the notice of appeal to a prison official. If the notice of appeal log did not indicate that appellant delivered the notice of appeal to a prison official, the attorney general was to so inform this court. If appellant used any other log or system designed for legal mail during the relevant time period, the attorney

general was to so inform this court and provide this court with a certified copy of the log or system used by appellant.


In response, the attorney general indicates that appellant did not utilize the notice of appeal log during the relevant time period. Attached to the amended response is a declaration from the law library supervisor at Southern Nevada Correctional Center, as well as copies of the notice of appeal log and incoming and outgoing legal mail logs. The law library supervisor certifies that the notice of appeal log of Southern Nevada Correctional Center does not reveal any notice of appeal submitted or logged by Houston during the month of January 2023. The legal mail log indicates that appellant mailed documents to the court clerk on February 21, 2023.

Under these circumstances, it does not appear that appellant timely delivered his notice of appeal to a prison official and thus it cannot be deemed timely under NRAP 4(d). This court lacks jurisdiction to consider appellant's untimely filed notice of appeal. *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994), and

ORDERS this appeal DISMISSED.


_____, J.
Cadish


_____, J.
Pickering


_____, J.
Bell

cc: Hon. Kathleen A. Sigurdson, District Judge
Dominique Travell Houston
Attorney General/Carson City
Attorney General/Las Vegas
Washoe County District Attorney
Washoe District Court Clerk