

IN THE SUPREME COURT OF THE STATE OF NEVADA

HILARY MICHAEL MILKO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40013

FILED

AUG 20 2002

ORDER DISMISSING APPEAL

JANETTE M BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK


This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Our review of this appeal indicates that the district court denied appellant's petition on February 4, 2002. The district court served appellant with notice of entry of the district order denying his petition on February 19, 2002.¹ Appellant did not file the notice of appeal, however, until July 26, 2002, well after the expiration of the thirty-day appeal period prescribed by NRS 34.575. An untimely notice of appeal fails to vest jurisdiction in


¹We note that the clerk of the district court served a second notice of entry on July 31, 2002. The first service of notice of entry clearly provided appellant with actual notice that a written order denying his petition had been entered. The second notice of entry could not have created confusion because appellant's notice of appeal was in actuality filed prior to service of the second notice of entry. Thus, we conclude that service of the first notice of entry commenced the running of the time period for filing a notice of appeal. See Healy v. Volkswagenwerk, 103 Nev. 329, 741 P.2d 432 (1987); but see Ross v. Giacomo, 97 Nev. 550, 635 P.2d 298 (1981).

this court.² Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.

 J.
Young

 J.
Agosti

 J.
Leavitt

cc: Hon. Jack Lehman, District Judge
Attorney General/Carson City
Clark County District Attorney
Hilary Michael Milko
Clark County Clerk

²See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).