

JUL 13 2017

IN THE UTAH COURT OF APPEALS

----ooOoo----

| | | |
|----------------------------------|---|----------------------|
| RAMON ALFREDO SOMOZA, |) | |
| Petitioner and Appellant, |) | |
| v. |) | ORDER OF SUMMARY |
| STATE RECORDS COMMITTEE AND UTAH |) | AFFIRMANCE |
| COUNTY, |) | |
| Respondents and Appellees. |) | Case No. 20170406-CA |

Before Judges Christiansen, Roth, and Toomey.

Ramon Alfredo Somoza appeals the district court's order dismissing his petition for judicial review of the State Records Committee's decision regarding a records request from Somoza. The district court dismissed the petition for review because Somoza's initial appeal to the Records Committee was untimely. This matter is before the court on its own motion for summary disposition based on the lack of a substantial question for review warranting further proceedings by this court.

It is undisputed that Somoza's notice of appeal to the Records Committee was untimely under Utah Code section 63G-2-403(1)(a). However, Somoza argues that his appeal to the Records Committee should have been reviewed on the merits rather than dismissed as untimely because he received notice of the decision from the Utah County Board of Commissioners many days after the date of the decision. He asserts that he could not have filed a notice of appeal within the time remaining.

Under the statute, however, the thirty-day time to appeal runs from the date of the order rather than the date of receipt. *See* Utah Code § 63G-2-403(1)(a). "To allow the time for appeal to be extended because of receipt in the mail is contrary to the statutory language and would render uncertain the time for appeal in virtually every case." *Silva v. Department of Emplt. Sec.*, 786 P.2d 246, 247 (Utah Ct. App. 1990). Accordingly, Somoza was required to file his notice within thirty days from the date of the order. Based on his untimely notice of appeal, the Records Committee lacked jurisdiction to review the merits of his appeal.

Because Somoza's appeal to the Records Committee was untimely, the district court did not err in granting the Records Committee's motion to dismiss. The merits of

Somoza's appeal were not properly before the district court and the timing of Somoza's appeal to the Records Committee was undisputed.

IT IS HEREBY ORDERED that the trial court's order is affirmed.

Dated this 13th day of July, 2017.

FOR THE COURT:

A handwritten signature in cursive script that reads "Michele M. Christiansen". The signature is written in black ink and is positioned above a horizontal line.

Michele M. Christiansen, Judge

CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2017, a true and correct copy of the foregoing ORDER was deposited in the United States mail or was sent by electronic mail to be delivered to:

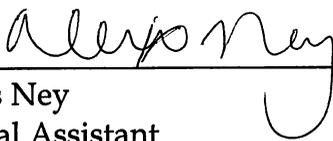
RAMON ALFREDO SOMOZA 204564
UTAH STATE PRISON
PO BOX 250
DRAPER UT 84020

ERIN T. MIDDLETON
emiddleton@agutah.gov

PAUL H. TONKS
ptonks@utah.gov

PAUL A. JONES
POPONATUI MATO SITAKE, JR
pauljo@utahcounty.gov
ponas@utahcounty.gov

FOURTH DISTRICT, PROVO DEPT
provoinfo@utcourts.gov

By 
Alexis Ney
Judicial Assistant

Case No. 20170406
FOURTH DISTRICT, PROVO DEPT, 150401904