

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY SHEPARD,
Appellant,
vs.
J.C. PENNEY LIFE INSURANCE
COMPANY,
Respondent.

No. 45567

FILED

FEB 23 2006

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

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order that granted summary judgment to respondent. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Our review of this appeal reveals a jurisdictional defect. Specifically, the notice of appeal is untimely. A notice of appeal must be filed no later than thirty days after written notice of the appealed order's entry is served.¹ Three days are added to this period if service is by mail.²

Here, written notice of the district court's order granting summary judgment to respondent was served by mail on December 22, 2004. Appellant's notice of appeal was filed on July 6, 2005, well outside the thirty-three-day appeal period.³ Additionally, appellant's subsequent

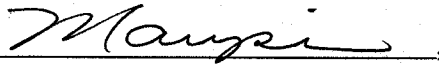
¹NRAP 4(a)(1).

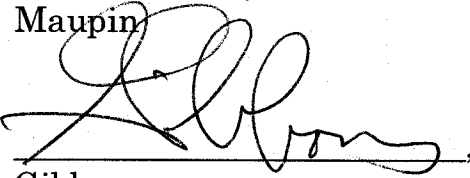
²NRAP 26(c).

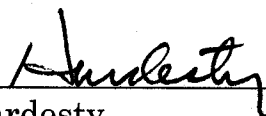
³NRAP 4(a)(1), 26(c).

“motion to amend,” seeking to add a defendant to his complaint, is not a tolling motion, and thus it failed to toll the time for filing a notice of appeal.⁴ Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.⁵


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Janet J. Berry, District Judge
Gary Shepard
Robison Belaustegui Sharp & Low
Washoe County Clerk

⁴See NRAP 4(a). Further no appeal lies from an order denying such a motion. See NRAP 3A(b) (outlining the orders or judgments from which an appeal may be taken).

⁵In light of this order, we deny appellant’s request for transcripts as moot.