

IN THE SUPREME COURT OF THE STATE OF NEVADA

RUBIN S. AUERBACH,
Appellant,
vs.
HARRAH'S OPERATING COMPANY,
INC.; AND OTIS ELEVATOR
COMPANY, A NEVADA
CORPORATION,
Respondents.

No. 51279

FILED

JUN 13 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court summary judgment in a tort action. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Our review of the documents transmitted to this court pursuant to NRAP 3(e) reveals a jurisdictional defect. Specifically, appellant's notice of appeal was untimely filed. A notice of appeal must be filed no later than 30 days after written notice of the challenged order's entry is served.¹ Three days are added to this period if service is by mail.² Further, although the filing of specific motions may toll the 30-day

¹NRAP 4(a)(1).

²NRAP 26(c).

limitations period, a motion for reconsideration does not toll the time period for filing a notice of appeal.³

Here, written notice of entry of the district court's order granting summary judgment to respondent Otis Elevator Company was served on appellant by mail on April 27, 2006.⁴ More than a year later, appellant filed a motion for reconsideration in the district court, which was ultimately denied on July 12, 2007. Appellant's notice of appeal was subsequently filed on March 18, 2008, well beyond the 33-day appeal period for the order granting summary judgment to Otis Elevator.⁵ As noted above, the filing of a motion for reconsideration does not toll the time for filing a notice of appeal. Thus, to the extent that appellant seeks to appeal from the final judgment in the underlying case, his notice of appeal was untimely filed. Moreover, to the extent that appellant's appeal could be construed as challenging the denial of his motion for reconsideration, no appeal lies from an order denying such a motion.⁶

³See NRAP 4(a)(4); Alvis v. State, Gaming Control Bd., 99 Nev. 184, 660 P.2d 980 (1983).

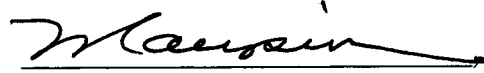
⁴The granting of summary judgment to Otis Elevator represents the final judgment in the underlying matter, since summary judgment was previously granted to respondent Harrah's Operating Company, Inc., on April 4, 2006. See Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000) (providing that a final judgment is an order or judgment that finally resolves all claims against all parties to an action and leaves nothing for the district court's future consideration except for post-judgment issues).

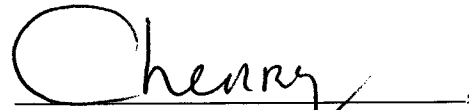
⁵NRAP 4(a)(1); NRAP 26(c).

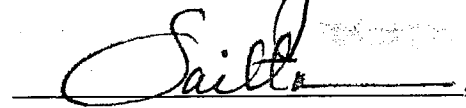
⁶See Alvis, 99 Nev. 184, 660 P.2d 980.

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

ORDER this appeal DISMISSED.


Maupin J.


Cherry J.


Saitta J.

cc: Hon. Connie J. Steinheimer, District Judge
Rubin S. Auerbach
Hamilton & McMahon
Robison Belaustegui Sharp & Low
Washoe District Court Clerk