

IN THE SUPREME COURT OF THE STATE OF NEVADA

ULISES DURAN,
Appellant,
vs.
WOODS ERICKSON WHITAKER &
MAURICE, LLP,
Respondent.

No. 52018

FILED

JAN 09 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court judgment on an attorney's lien and an order denying a motion for reconsideration or to set aside the judgment. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Respondent has moved to dismiss this appeal for lack of jurisdiction, asserting that the appeal is untimely as to the judgment and that the order denying reconsideration and to set aside the judgment is not independently appealable. Appellant has opposed the motion, and respondent has filed a reply, as permitted.

This court has consistently adhered to the proposition that the right to appeal is statutory; if no statute or court rule provides for an appeal, no right to appeal exists. See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984); Kokkos v. Tsalikis, 91 Nev. 24, 530 P.2d 756 (1975). Under NRAP 3A(b)(1), an aggrieved party may appeal from a final judgment, which is one that resolves all of the claims between all of the parties. Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000). NRAP 3A(b)(2) provides for an appeal from a special order after final

judgment, such as an order denying a motion to set aside a judgment pursuant to NRCP 60(b). Holiday Inn v. Barnett, 103 Nev. 60, 732 P.2d 1376 (1987). Appeals must be filed within 30 days from the date on which written notice of the order's entry is served. NRAP 4(a); see also NRAP 26(c) (adding three days to the appeal period if service is by mail).

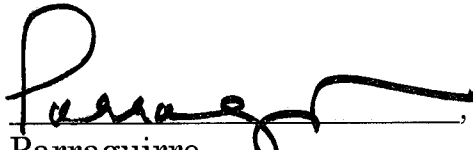
Here, appellant's appeal is jurisdictionally defective for several reasons. Most significantly, the district court has not rendered a final judgment resolving all of the claims between all of the parties, since, as noted in appellant's docketing statement, appellant's claims against the defendants remain pending below. Accordingly, the attorney's lien judgment is not appealable as a final judgment, and no other statute or rule appears to permit an appeal from such an interlocutory judgment. Even if the attorney's lien judgment was independently appealable, appellant's July 7, 2008, notice of appeal is untimely, since it was filed more than 33 days after the judgment's notice of entry was served on April 16, 2008. Further, since no final judgment has been rendered, the order denying the motion for reconsideration or to set aside the judgment is not independently appealable as a special order after final judgment.¹ Accordingly, we lack jurisdiction to consider this appeal and grant

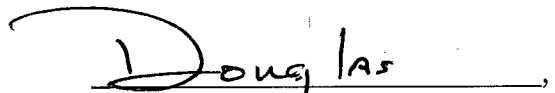
¹While orders denying motions for NRCP 60(b) relief from the final judgment are generally appealable as special orders after final judgment, NRAP 3A(b)(2), orders denying reconsideration are not appealable, see Alvis v. State, Gaming Control Bd., 99 Nev. 184, 660 P.2d 980 (1983). Neither motion tolls the appeal period. NRCP 4(a)(4).

respondent's motion to dismiss. Respondent's request for sanctions based on frivolity is denied.²

As we lack jurisdiction, we

ORDER this appeal DISMISSED.


Parraguirre, J.


Douglas, J.


Pickering, J.

cc: Hon. Michael Villani, District Judge
Howard Roitman, Settlement Judge
Edward G. Marshall
Woods Erickson Whitaker Miles & Maurice, LLP
Eighth District Court Clerk

²In light of this order, we need not consider the parties' arguments as to who constitute the proper respondents on appeal.