

IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON ERIC SONNTAG,
Appellant,
vs.
CREEKSIDE APARTMENTS A/K/A
CREEKSIDE HERITAGE LLC,
Respondent.

No. 54082

FILED

OCT 05 2009

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

ORDER DISMISSING APPEAL

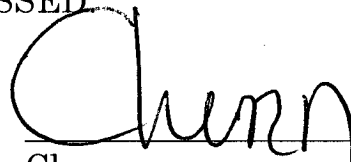
This is a proper person appeal from a final judgment and from an order denying a motion to vacate the judgment. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.


Respondent has filed a motion to dismiss this appeal, asserting that the notice of appeal was untimely as to the final judgment and that no tolling motion under NRAP 4(a)(4) was filed. Appellant has not opposed the motion.

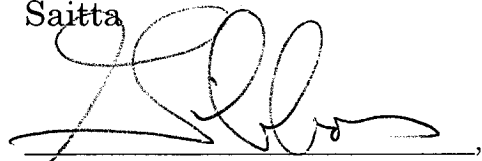
Notice of entry of the district court's November 7, 2008, final judgment was served on appellant by respondent's counsel via U.S. mail on November 10, 2008. Because service of the notice of entry was by mail, appellant had 33 days from the date of service to file his notice of appeal. See NRAP 4(a)(1); NRAP 26(c). Appellant's notice of appeal was therefore due to be filed in the district court on or before December 15, 2008. See NRAP 26(a) and (c). Appellant filed his notice of appeal on June 22, 2009, long after the 33-day period for filing his notice of appeal had run. Also, while the district court's March 10, 2009, order denying his motion to vacate the judgment appears to be an appealable special order after final judgment, NRAP 3A(b)(2); Kahn v. Orme, 108 Nev. 510, 835 P.2d 790 (1992), the notice of appeal was untimely as to this order, as well.

Specifically, written notice of this order's entry was served on March 10, 2009, and thus the appeal period expired on April 13, 2009. Since appellant's notice of appeal was untimely filed, we lack jurisdiction to consider this appeal. See Healy v. Volkswagenwerk, 103 Nev. 329, 331, 741 P.2d 432, 433 (1987) (noting that an untimely notice of appeal fails to vest jurisdiction in this court). Accordingly, we grant respondent's motion and

ORDER this appeal DISMISSED


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Brent T. Adams, District Judge
Jason Eric Sonntag
Georgeson Angaran, Chtd.
Washoe District Court Clerk