

IN THE SUPREME COURT OF THE STATE OF NEVADA

SOUTH SHORE HOMEOWNERS  
ASSOCIATION, A NEVADA NON-PROFIT  
CORPORATION; JAMES BRANNAN,  
INDIVIDUALLY AND ON BEHALF OF THE  
CLASS MEMBERS AT SOUTH SHORE  
HOMEOWNERS ASSOCIATION,

Appellants,

vs.

R.K. ROOFING, INC.,

Respondent.

No. 35668

**FILED**

AUG 30 2000

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

ORDER DISMISSING APPEAL

This is an appeal from orders of the district court denying appellants' motion for leave to serve a complaint more than 120 days after filing and a countermotion to amend the complaint to add parties plaintiff and to relate back. When our preliminary review of the documents submitted to this court pursuant to NRAP 3(e) revealed several potential jurisdictional defects, we ordered appellants to demonstrate this court's jurisdiction to consider this appeal.

Specifically, the orders designated in the notice of appeal did not appear to be appealable because no statute or court rule provides for an appeal from orders denying a motion for leave to file a complaint and a motion to amend a complaint. See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984) (stating that this court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule).<sup>1</sup> In addition, it appeared that the district court's certification of the orders

<sup>1</sup>We have recognized that an order dismissing an action for failure to serve the summons and complaint pursuant to NRCP 4(i) is a final, appealable order. See Abreu v. Gilmer, 115 Nev. 308, 985 P.2d 746 (1999); Dallman v. Merrell, 106 Nev. 929, 803 P.2d 232 (1990). Appellants may appeal once the district court formally dismisses the action, which the district court may do upon its own initiative pursuant to NRCP 4(i).

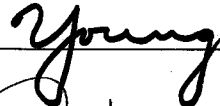
as final pursuant to NRCP 54(b) was improper because the orders were not amenable to certification. See Taylor, 100 Nev. at 209, 678 P.2d at 1153 (stating that "[t]he district court does not have the power . . . to transform an interlocutory order which does not come within the rule [NRAP 3A], into a final judgment.").


Moreover, even assuming that the NRCP 54(b) certification was proper, the district court's certification of its order denying appellants' motion to amend the complaint was entered on February 17, 2000, three days after appellants filed their notice of appeal on February 14, 2000. Consequently, appellants' appeal with respect to this order was prematurely filed in that it was filed prior to certification of that order. A premature notice of appeal is ineffective to vest jurisdiction in this court. See Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987).

We have considered appellants' response to our order to show cause and conclude that we lack jurisdiction over this appeal. Accordingly, we

ORDER this appeal dismissed.

  
\_\_\_\_\_, C.J.  
Rose

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

cc: Hon. Gene T. Porter, District Judge  
Schofield & Associates  
Ryan, Marks, Johnson, Todd & Broder  
Clark County Clerk