


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LINDA S. DENT,
Appellant,
vs.
THE STATE OF NEVADA
EMPLOYMENT SECURITY DIVISION;
RENEE OLSON, IN HER CAPACITY AS
ADMINISTRATOR OF THE
EMPLOYMENT SECURITY DIVISION;
KATIE JOHNSON, IN HER CAPACITY
AS THE CHAIRPERSON OF THE
EMPLOYMENT SECURITY DIVISION;
AND THE STATE OF NEVADA BOARD
OF REVIEW FOR THE EMPLOYMENT
SECURITY DIVISION,
Respondents.

No. 62163

FILED

APR 14 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying a petition for judicial review. Eighth Judicial District Court, Clark County; Nancy L. Allf, Judge.

On February 4, 2015, we directed appellant to show cause why this appeal should not be dismissed for lack of jurisdiction because appellant had filed a timely motion for reconsideration, which appeared to constitute an NRCP 59(e) tolling motion, *see AA Primo Builders, LLC v. Washington*, 126 Nev. ___, ___, 245 P.3d 1190, 1192-93 (2010) (explaining the circumstances in which a motion for reconsideration may be treated as a tolling motion), and that motion remained pending below, rendering appellant's November 20, 2012, notice of appeal prematurely filed. As

noted in our show cause order, until the motion for reconsideration was resolved, jurisdiction remained vested in the district court, *see* NRAP 4(a)(4), (6), and thus, one way appellant could have corrected this jurisdictional defect was by providing us with a written, file-stamped district court order formally resolving her motion for reconsideration.

In support of her March 5, 2015, response to our show cause order, appellant provided us with a copy of the district court's December 12, 2012, minutes, which note the court's decision to vacate a scheduled hearing on the motion for reconsideration, and argues that we should treat these minutes as a final, written disposition of her motion for reconsideration, which would render her appeal timely filed under NRAP 4(a)(6).¹ It is well established, however, that a district court's oral pronouncement from the bench, the district court's minutes, and unfiled written district court orders are ineffective for appellate purposes and, thus, cannot either divest the district court of jurisdiction or vest jurisdiction in Nevada's appellate courts. *See Rust v. Clark Cnty. Sch. Dist.*, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987). Appellant's arguments that we should treat the district court's minutes as a written order resolving her motion for reconsideration are therefore without merit and, because the motion for reconsideration remains pending below, we necessarily lack jurisdiction to consider appellant's prematurely filed appeal.

¹On March 16, 2015, respondents notified this court that they did not intend to file a reply to appellant's response.


Here, the district court's December 12, 2012, minutes demonstrate that, not only did the court not reach the merits of the motion for reconsideration, as appellant points out, but that the district court actually failed to orally rule on the motion at all. Instead, it simply ordered that an upcoming hearing on the motion be vacated based on its conclusion that it lacked jurisdiction to consider the motion in light of appellant's filing of a notice of appeal. As detailed above, and in our February 4 show cause order, however, because the motion for reconsideration constituted a timely tolling motion, the district court's conclusion that it lacked jurisdiction to rule on that motion was erroneous, as jurisdiction over this matter remains vested in the district court. See NRAP 4(a)(4), (6). Given that we lack jurisdiction over this appeal and that, as noted in both appellant's response to our show cause order and respondents' answering brief on appeal, respondents filed a non-opposition to appellant's motion for reconsideration below,² it appears that the ends of justice and the efficient resolution of this matter will be best served by dismissing this appeal, so that the district court can address appellant's

²Because we lack jurisdiction over this appeal, we do not comment on the merits of appellant's challenge to the denial of her petition for judicial review. Nonetheless, we note that respondents' answering brief concedes that the district court improperly concluded that it lacked jurisdiction over the petition for judicial review and requests that the decision be remanded to the district court so that it can be reconsidered.

unopposed motion for reconsideration on the merits. Accordingly, we dismiss this appeal.³

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Nancy L. Alf, District Judge
Hon. Linda Marie Bell, District Judge
Nevada Legal Services/Las Vegas
State of Nevada/DETR
Eighth District Court Clerk

³In the event that the district court fails to grant appellant's unopposed motion for reconsideration, our dismissal of this appeal does not preclude appellant from timely filing a new appeal from the denial of her petition for judicial review once a written, file-stamped order resolving the motion for reconsideration has been entered. See NRAP 4(a)(4) (setting forth the time for filing a notice of appeal following the district court's resolution of a timely filed tolling motion).