

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
BILL GUS ANDREWS,

No. 63908

JOHN LUCKETT,
Appellant,
vs.
HOLLAND & HART LLP/LAS VEGAS,
Respondent.

FILED

JAN 21 2015

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

ORDER DISMISSING APPEAL

This is a pro se appeal from a district court order entered in a probate matter. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

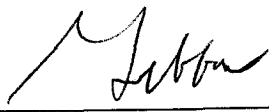
On June 28, 2013, the district court entered the challenged order, which denied various motions filed in the underlying probate action. As an initial matter, certain portions of the district court's June 28 order, such as those denying appellant's motions seeking to impose contempt sanctions, are not amenable to challenge on appeal. *See Pengilly v. Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 649, 5 P.3d 569, 571 (2000) (concluding that "contempt orders must be challenged by an original petition pursuant to NRS Chapter 34"). Moreover, to the extent that any of the determinations contained in the challenged order may be substantively appealable, such as the portions of that order denying appellant's motion to be appointed administrator and determining that appellant had no interest in the estate, *see* NRS 155.190(1)(a), (j), and (m), appellant's notice of appeal was prematurely filed in the district court.


Here, on July 31, 2013, appellant filed a motion in the district court that sought to vacate the June 28 order, thereby seeking a substantive alteration of the rulings contained therein. And when such a

motion is timely filed, it tolls the time for filing a notice of appeal. See NRAP 4(a)(4)(C) (providing that an NRCP 59(e) motion to alter or amend the judgment tolls the time for filing a notice of appeal); *AA Primo Builders, LLC v. Washington*, 126 Nev. ___, ___, 245 P.3d 1190, 1192-93 (2010) (explaining that a timely filed motion for relief from a judgment that states with particularity the grounds for relief sought and seeks a “substantive alteration of the judgment” will be treated as an NRCP 59(e) tolling motion (internal quotations omitted)).

While the July 31 motion to vacate was filed more than ten days after entry of the district court’s June 28 order, no notice of entry of that order had been filed at the time appellant filed his motion to vacate, such that that motion constituted a timely tolling motion. See NRCP 59(e) (requiring a motion to alter or amend a judgment to be filed within ten days “after service of written notice of entry of the judgment”). And because nothing before us indicates that the motion to vacate has been resolved by the district court, we conclude that appellant’s notice of appeal was premature, and that we therefore lack jurisdiction to consider this appeal. See NRAP 4(a)(6). Accordingly, we

ORDER this appeal DISMISSED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

¹In light of this order, we deny as moot any other requests for relief pending in this appeal.

cc: Hon. Michael Villani, District Judge
John Lockett
Holland & Hart LLP/Las Vegas
Eighth District Court Clerk