

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
STEVEN L. BACLET.

No. 64021

JEFFREY BACLET,
Appellant,
vs.
ROSALIE BACLET,
Respondent.

FILED

AUG 06 2015

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

ORDER DISMISSING APPEAL

This is an appeal from a final judgment denying appellant relief related to the distribution of property in a probate matter.¹ Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Our review of the documents before us on appeal reveals a jurisdictional defect, as the notice of appeal was prematurely filed. In the underlying action, the district court's order denying appellant's petition for relief was entered on August 9, 2013, and notice of entry of that order was served on appellant by mail on August 12, 2013. On August 29, 2013,


¹Appellant filed a separate notice of appeal from a different order entered in the same probate matter in *In re Estate of Baclet*, Docket No. 64298. The Nevada Supreme Court dismissed that appeal for lack of jurisdiction, noting that the order identified in that notice of appeal was not a final, appealable judgment. *In re Estate of Baclet*, Docket No. 64298 (February 19, 2014, Order Dismissing Appeal). The Nevada Supreme Court further indicated that the order being appealed in the present appeal is an appealable order. *Id.* The Nevada Supreme Court did not, however, address any other jurisdictional concerns that may be present in this appeal, and as discussed below, we now dismiss this appeal in light of those additional concerns.


appellant filed a timely motion for reconsideration of the district court's order, *see* NRCP 6(a), (e) (regarding the computation of time for filing documents), which sought a substantive change to that order. Thus, the motion for reconsideration qualified as a tolling motion under NRCP 59. *See* NRAP 4(a)(4)(C) (explaining that an NRCP 59 motion to alter or amend the judgment tolls the time for filing a notice of appeal); *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 581-82, 245 P.3d 1190, 1192-93 (2010) (recognizing that a timely post-judgment motion for reconsideration that seeks a substantive change to the judgment qualifies as a tolling motion under NRCP 59 and NRAP 4(a)(4)). To date, however, the motion for reconsideration has not been resolved by the district court.²

Under these circumstances, appellant's notice of appeal was premature, and thus, did not divest the district court of jurisdiction or vest jurisdiction in this court on appeal. *See* NRAP 4(a)(6) ("A premature notice of appeal does not divest the district court of jurisdiction."). Accordingly, because we lack jurisdiction over this appeal, we

ORDER this appeal DISMISSED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

²The district court's docket sheet includes an entry on September 5, 2013, which appears to indicate that the motion for reconsideration was denied on that date. The only order from that date appearing in the record, however, denies appellant's request to submit the motion for reconsideration, but does not address the motion for reconsideration itself.

cc: Hon. Connie J. Steinheimer, District Judge
Jeffrey Baclet
Brian Kelly, LLC
Washoe District Court Clerk