

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL MCLAUGHLIN,
Appellant,
vs.
BRIAN E. WILLIAMS, SR.; AND THE
STATE OF NEVADA,
Respondents.

No. 64450

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 dismissing appellant's complaint. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

On September 12, 2013, the district court entered the challenged order, which dismissed appellant's underlying tort complaint for failure to name the proper parties, failure to effectuate proper service, and failure to follow and exhaust all administrative remedies. Then, on September 13, 2013, appellant filed a motion in the district court which, in substance, sought to alter the judgment in regard to the service and exhaustion of administrative remedies issues. 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)).

In this case, appellant's motion to alter the judgment was filed prior to the notice of entry of that order being filed; thus, it was timely. 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 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.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Jerry A. Wiese, District Judge
Michael Tracy McLaughlin
Attorney General/Carson City
Eighth District Court Clerk