

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK MILFORD PECK,
Appellant,
vs.
THE STATE OF NEVADA; WASHOE
COUNTY; WASHOE COUNTY
CRIMELAB; RENE ROMERO,
DIRECTOR; AND JEFFREY RIOLO, SR.
ANALYST,
Respondents.

No. 66236

FILED

SEP 02 2014

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

ORDER DISMISSING APPEAL

Our review of the documents before us on appeal reveals jurisdictional defects. The June 27, 2014, order challenged on appeal grants judgment on the pleadings and dismisses appellant's complaint only as to respondents Rene Romero and Jeffrey Riolo. While the district court docket entries reflect that respondents the State of Nevada and Washoe County Crimelab were dismissed from the case below before the entry of the June 27 order, no such entry exists for respondent Washoe County. It therefore appears that appellant's complaint remains pending as to Washoe County, and thus, a final judgment does not seem to have been entered in the underlying case. *See Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000) (defining a final judgment as one that adjudicates all of the rights and liabilities of all the parties, leaving only post-judgment considerations such as attorney fees and costs for the court's consideration).

But even if the underlying case had been dismissed as to Washoe County, such that the June 27 order could be construed as the final judgment below, before filing his notice of appeal from the June 27

order, appellant filed a motion for reconsideration of that decision, which tolls the time for filing a notice of appeal. *See AA Primo Builders, LLC v. Washington*, 126 Nev. ___, ___, 245 P.3d 1190, 1192-93 (2010) (recognizing that a timely post-judgment motion for reconsideration that seeks a substantive change to the judgment tolls the time to file a notice of appeal). To date, this motion has not been resolved by the district court, and thus, the notice of appeal is premature as it did not confer jurisdiction upon this court. *See* NRAP 4(a)(6).

For the reasons set forth above, we conclude that we lack jurisdiction over this matter and dismiss this appeal. In light of this conclusion, we deny as moot appellant's August 18, 2014, motion for leave to file an opening brief. The clerk of this court shall therefore return, unfiled, the proposed opening brief attached to appellant's motion.

It is so ORDERED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Scott N. Freeman, District Judge
Frank Milford Peck
Attorney General/Carson City
Washoe County District Attorney/Civil Division
Washoe District Court Clerk