

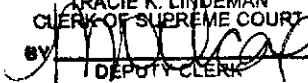
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIERSA O'NEAL,
Appellant,
vs.
MGM RESORTS; CIRCUS-CIRCUS
CASINO; JAMES PITSNOGLE; AND
CHRISTOPHER JORDAN,
Respondents.

No. 68210

FILED

NOV 19 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order dismissing a torts action. Second Judicial District Court, Washoe County; Lidia Stiglich, Judge.


Our preliminary review of the documents submitted to this court pursuant to NRAP 3(g) reveals a jurisdictional defect. Specifically, following the entry of the district court's order dismissing the case in its entirety, appellant filed a timely motion seeking reconsideration of that decision, which sought a substantive change to the order of dismissal. Thus, the motion for reconsideration qualified as a tolling motion under NRCP 59(e). *See* NRAP 4(a)(4)(C) (explaining 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. 578, 581-82, 245 P.3d 1190, 1192-93 (2010) (recognizing that a timely-filed post judgment motion for reconsideration that seeks a substantive change to the challenged order qualifies as a tolling motion under NRCP 59(e) and NRAP 4(a)(4)).


To date it does not appear that the motion for reconsideration has been resolved by the district court. Under these circumstances,

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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 necessarily

ORDER this appeal DISMISSED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Lidia Stiglich, District Judge
Tiersa O'Neal
Rands & South & Gardner/Reno
Reno City Attorney/Reno
Washoe District Court Clerk