

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT HART THOMAS, JR.,
Appellant,
vs.
CHRISTINE THOMAS,
Respondent.

No. 71010

FILED

OCT 30 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; T. Arthur Ritchie, Jr., Judge.


Our preliminary review of the documents submitted to this court pursuant to NRAP 3(g) reveals a jurisdictional defect. Specifically, following entry of the district court's divorce decree, appellant filed a timely motion seeking reconsideration of that decision on May 5, 2016, which qualified as a tolling motion under NRCP 59(e), as it sought a substantive change in the divorce decree.¹ 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, 585, 245 P.3d 1190, 1195 (2010) (recognizing that a timely-filed post judgment motion for reconsideration that seeks a substantive change to the


¹Despite the passage of time between the entry of the decree and the filing of appellant's motion for reconsideration, the motion was timely for purposes of NRCP 59(e), as it was filed before notice of entry of the decree was served. See NRCP 59(e) (requiring that a motion to alter or amend the judgment be filed within "10 days after service of written notice of entry").

challenged order qualifies as a tolling motion under NRCP 59(e) and NRAP 4(a)(4)(C)).

To date, it appears that, although the district court orally denied appellant's request for relief on May 25, 2016, no written order resolving his motion for reconsideration has been entered. *See Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987) (explaining that "[t]he district court's oral pronouncement from the bench, the clerk's minute order, and even an unfiled written order are ineffective for any purpose and cannot be appealed"). Under these circumstances, appellant's notice of appeal was premature, and thus, it 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.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

²In light of this order, we deny as moot appellant's October 12, 2017, request for relief. *See Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) (explaining that appellate courts generally will not consider moot issues).

cc: Hon. T. Arthur Ritchie, Jr., District Judge, Family Court Division
Robert Hart Thomas, Jr.
Rocheleau Law Group/Right Lawyers
Eighth District Court Clerk