

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEITH SHIVAK,  
Appellant,  
vs.  
THOMAS HOUSTON,  
Respondent.

No. 73027

FILED

JUN 28 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *AWilcox*  
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is a pro se appeal from an order denying a motion for reconsideration of an order of dismissal and release of funds to respondent. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

Our review of the documents submitted to this court pursuant to NRAP 3(g) reveals a jurisdictional defect. Specifically, the notice of appeal appears to be untimely filed under NRAP 4(a) because it appears that it was filed more than thirty days after service of written notice of entry of the judgment or order. See NRAP 4(a)(1); NRAP 26(c). Written notice of the court's order dismissing the action and releasing the disputed funds was filed and served on November 8, 2016. Appellant's notice of appeal was therefore due on or before December 12, 2016, unless appellant filed a timely tolling motion. Appellant filed his motion for reconsideration on March 3, 2017, well after the 10 days allowed for filing such a motion. See EDCR 2.24(b), NRCPC 59. While a timely-filed motion for reconsideration will toll the time to appeal, an untimely motion for reconsideration does not toll the time to appeal. See NRAP 4(a)(6); *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 245 P.3d 1190 (2010);


*Morrell v. Edwards*, 98 Nev. 91, 93, 640 P.2d 1322, 1324 (1982). Therefore, appellant's notice of appeal was untimely filed.

Finally, an order denying a motion for reconsideration is not independently appealable. See *Arnold v. Kip*, 123 Nev. 410, 417, 168 P.3d 1050, 1054 (2007) ("an order denying reconsideration is not appealable"); *Rico v. Rodriguez*, 121 Nev. 695, 700 n.1, 120 P.3d 812, 815 n.1 (2005).

We conclude that we lack jurisdiction, and we

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. Jerry A. Wiese, District Judge  
Keith Shivak  
Day & Nance  
Eighth District Court Clerk