

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY E. MCKINLEY,  
Appellant,  
vs.  
MEGAN MCCLELLAN; ROBERT  
LEGRAND, WARDEN; S.L. FOSTER;  
RICHARD MAIN; LEANNE  
RUTHERFORD; STARLIN GENTRY; J.  
HILDERBRAND; QUENTIN BYRNE; S.  
BAROS; CATHERINE CORTEZ MASTO;  
AND BENJAMIN JOHNSON,  
Respondents.

No. 72294

FILED

APR 21 2017

ELIZABETH BROWN  
CLERK U.S. SUPREME COURT  
BY *A. Wilcox*  
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is an appeal from a district court order granting a motion to dismiss. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

On December 16, 2016, this court entered an order dismissing appellant's appeal in Docket No. 71866 on the ground that no written order had been entered. The remittitur issued on January 13, 2017.

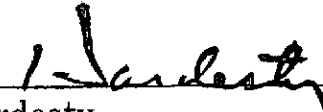
On December 21, 2016, the district court entered its final written order granting respondents' motion to dismiss or for summary judgment and denying appellant's motion for summary judgment. Appellant appeals from this order in the instant appeal

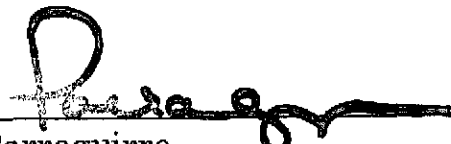
The district court has filed a request for guidance in Docket No. 71866 in which the court informs this court that after entry of the order granting summary judgment, appellant filed a timely motion to alter or amend the judgment pursuant to NRCP 52(a). The filing of a timely motion under NRCP 52 tolls the time to appeal and renders a notice of appeal filed before resolution of the motion premature and of no effect. NRAP 4(a)(4)(B). The district court has not resolved the motion to alter or


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amend the judgment, therefore this appeal is premature, this court lacks jurisdiction, and we

ORDER this appeal DISMISSED.

  
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Hardesty J.

  
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Parraguirre J.

  
\_\_\_\_\_  
Stiglich J.

cc: Hon. Jim C. Shirley, District Judge  
Gary E. McKinley  
Attorney General/Carson City  
Pershing County Clerk