

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARVIN CARRERA,
Appellant,
vs.
CLAUDIA MONTES,
Respondent.

No. 79571

FILED

OCT 18 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order regarding a motion to modify custody of a minor child.¹ Eighth Judicial District Court, Clark County; Rhonda Kay Forsberg, Judge.

Review of the documents before this court reveals a jurisdictional defect. Specifically, the notice of appeal appears to be prematurely filed under NRAP 4(a) because it was filed after the timely filing of a tolling motion and before the motion has been formally resolved. See NRAP 4(a)(4); *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010) (describing when a motion for reconsideration may be construed as a tolling motion). Appellant filed a timely motion for reconsideration, and the district court has set the motion for hearing. A timely tolling motion terminates the 30-day appeal period,

¹Cause appearing, counsel for respondent's motion to withdraw as counsel of record is granted. The clerk of this court shall remove John T. Kelleher and Kelleher & Kelleher, LLC, as counsel of record for respondent.

and a notice of appeal is of no effect if it is filed after such motion is filed, and before the district court enters a written order finally resolving the motion. See NRAP 4(a)(4). This court lacks jurisdiction and

ORDERS this appeal DISMISSED.²

Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Silver, J.
Silver

cc: Hon. Rhonda Kay Forsberg, District Judge
Marvin Carrera
Kelleher & Kelleher, LLC
Eighth District Court Clerk

²Given this dismissal, appellant's motion for stay, filed on September 30, 2019, and motion for extension of time filed on October 15, 2019, are denied as moot. The clerk shall return, unfiled, the transcript request form received on October 16, 2019.