

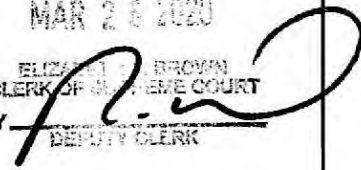
IN THE SUPREME COURT OF THE STATE OF NEVADA

WILBERT ROY HOLMES,  
Appellant,  
vs.  
SAN RAFAEL HOA,  
Respondent.

No. 80721

FILED

MAR 26 2020

ELIZABETH J. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is a pro se appeal from a district court order denying a motion for rehearing. Eighth Judicial District Court, Clark County; David M. Jones, Judge.

Review of the documents submitted to this court reveals a jurisdictional defect. First, an order denying a motion for rehearing is not substantively appealable. *See Alvis v. State, Gaming Control Bd.*, 99 Nev. 184, 186, 660 P.2d 980, 981 (1983), *disapproved of on other grounds by AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010).

To the extent the notice of appeal can be construed as an appeal from the October 31, 2019, order granting motion to dismiss, the notice of appeal is untimely. Service of notice of entry of the October 31 order was made on November 4, 2019. Thus, in order to toll the time for filing the notice of appeal, appellant's motion for rehearing needed to be filed, at the latest, by December 5, 2019. *See Washington*, 126 Nev. at 585, 245 P.3d at 1195 (describing when a motion for rehearing may be given NRCP 59(e) status with tolling effect under NRAP 4(a)(4)(C)); NRCP 59(e) (requiring a

motion seeking relief to be filed within 28 days of service of written notice of entry of judgement). Appellant's motion for rehearing was not filed until December 13, 2019, and therefore, did not toll the time to file a notice of appeal from the October 31 order. Thus, appellant's February 29, 2020, notice of appeal is untimely. See NRAP 4(a)(1). An untimely notice of appeal fails to vest jurisdiction in this court. See *Healy v. Volkswagenwerk Aktiengesellschaft*, 103 Nev. 329, 741 P.2d 432 (1987). This court lacks jurisdiction and

ORDERS this appeal DISMISSED.<sup>1</sup>

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

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

  
\_\_\_\_\_, J.  
Silver

cc: Hon. David M. Jones, District Judge  
Wilbert Roy Holmes  
Lipson Neilson P.C.  
Eighth District Court Clerk

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<sup>1</sup>Given this dismissal, this court takes no action in regard to the transcript request filed on March 20, 2020.