

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE ESTATE OF YAN SHING,  
Appellant,  
vs.  
WEN ZHANG,  
Respondent.

No. 81378

**FILED**

SEP 04 2020

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

*ORDER DISMISSING APPEAL*

This is an appeal from a district court order dismissing a complaint.<sup>1</sup> Eighth Judicial District Court, Clark County; Vincent Ochoa, Judge.

Respondent moves to dismiss this appeal, asserting that the notice of appeal was untimely filed. Notice of entry of the district court's May 1, 2020, order resolving a timely motion to reconsider the order of dismissal was served electronically on May 1, 2020. The notice of appeal was thus due to be filed in the district court by June 1, 2020. *See* NRAP 4(a)(1), (4); NRCP 6(a)(1)(C); *AA Primo*, 126 Nev. at 585, 245 P.3d 1195. Appellant did not file the notice of appeal in the district court until June 18, 2020, well past the 30-day deadline established by NRAP 4(a)(1). Appellant

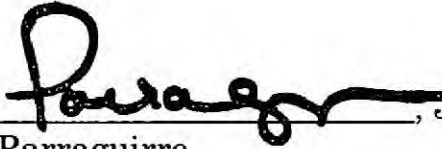
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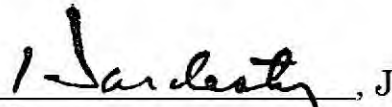
<sup>1</sup>The notice of appeal identifies an order denying a motion for reconsideration as the order challenged on appeal. An order denying a motion for reconsideration is not appealable. *Alvis v. State, Gaming Control Bd.*, 99 Nev. 184, 660 P.2d 980 (1983), *disapproved of on other grounds by AA Primo Builders v. Washington*, 126 Nev. 578, 245 P.3d 1190 (2010). However, the notice of appeal is construed as challenging the underlying order dismissing the complaint. *See Uniroyal Goodrich Tire Co. v. Mercer*, 111 Nev. 318, 320 n.1, 890 P.2d 785, 787 n.1 (1995), *superseded on other grounds by statute as stated by RTTC Commc'ns, LLC v. Saratoga Flier, Inc.*, 121 Nev. 34, 110 P.3d 24 (2005).

admits that the notice of appeal was untimely filed. Appellant contends, however, that this court should excuse the untimely filing due to disruptions caused by the coronavirus pandemic. Appellant asserts that the “decision makers” in this matter are in China; lockdowns in China and in Nevada have made communication between appellant, appellant’s family representatives, and appellant’s previous counsel extremely difficult. Due to the pandemic disruptions, appellant was not aware of the appellate deadline or the existence of an appealable order. But appellant directed the filing of a notice of appeal immediately upon learning of these circumstances.

While this court is sympathetic to the circumstances surrounding the untimely filing of the notice of appeal, this court is unable to extend the time to file the notice of appeal or otherwise excuse the untimely filing. See NRAP 3(a) (“An appellant’s failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal”); NRAP 26(b)(1)(A) (“[T]he court may not extend the time to file a notice of appeal except as provided in Rule 4(c).”). As this court lacks jurisdiction to consider an untimely notice of appeal, *Rust v. Clark Cty. School Dist.*, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987), this court

ORDERS this appeal DISMISSED.

  
Parraguirre, J.

  
Hardesty, J.

  
Cadish, J.

cc: Hon. Vincent Ochoa, District Judge  
Lansford W. Levitt, Settlement Judge  
Hutchison & Steffen, LLC/Las Vegas  
Alverson Taylor & Sanders  
Law Office of Andrew H. Pastwick, LLC  
JT Law Group  
Eighth District Court Clerk