

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN EARHART,  
Appellant,  
vs.  
CAROLLE MIDDLESTEAD,  
Respondent.

No. 37512

FILED

SEP 29 2003

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from the district court's January 23, 2001 findings of facts, conclusions of law and judgment and decree of divorce. Our review of the documents submitted before us reveals a jurisdictional defect. Specifically, the notice of appeal is premature under NRAP 4(a)(1) because it was filed before the entry of the court's final written judgment. A notice of appeal must be filed after a written judgment is entered and no more than thirty days after written notice of the judgment's entry is served.<sup>1</sup> A premature notice of appeal is ineffective and does not vest jurisdiction in this court.<sup>2</sup>

Here, on February 27, 2001, appellant filed a notice of appeal from the court's January 23, 2001 judgment. This judgment is not

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<sup>1</sup>NRAP 4(a)(1).

<sup>2</sup>Id.; Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987).

appealable, however, because it did not award any judgment amount to plaintiff. Instead, it notes that the judgment amount will be determined at a later date. As this judgment did not “dispose[ ] of all the issues presented in the case, and leave[ ] nothing for the future consideration of the court, except for post-judgment issues such as attorney’s fees and costs,” it is not a final judgment appealable under NRAP 3A(b).<sup>3</sup>

We have previously noted that the finality of a district court’s order depends on what it substantively achieves, not on how it is labeled.<sup>4</sup> On April 9, 2001, after appellant filed his notice of appeal, the district court entered “Findings of Fact and Conclusion of Law Relating to Final Judgment.” In this document, the court determined the net value of the parties’ assets along with the amount of proceeds available from selling the marital residence and, among other things, awarded respondent a \$450,000 judgment against appellant. Thus, this order is the court’s final judgment, as it resolved the remaining issues in the case. According to the documents before us, appellant did not file an amended notice of appeal from this order.<sup>5</sup>

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<sup>3</sup>Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000).

<sup>4</sup>Id. at 427, 996 P.2d at 417.

<sup>5</sup>See NRAP 4(a)(4).

We therefore conclude that we lack jurisdiction to consider this appeal, and we dismiss it.<sup>6</sup>

It is so ORDERED.

Becker, J.  
Becker

Shearing, J.  
Shearing

Gibbons, J.  
Gibbons

cc: Hon. T. Arthur Ritchie, District Judge, Family Court Division  
Lansford W. Levitt, Settlement Judge  
Roger P. Croteau & Associates, Ltd.  
Carolle Middlestead  
Clark County Clerk  
John Earhart

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<sup>6</sup>We deny as moot respondent's motion to dismiss this appeal, based upon the fugitive disentitlement doctrine.