

IN THE SUPREME COURT OF THE STATE OF NEVADA

HENRY CROCKETT, II, D/B/A STATE
FARM,
Appellant,
vs.
2960 ST. ROSE PARKWAY, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,
Respondent.

No. 85601

FILED

FEB 03 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

Appellant appeals from a district court order granting a renewed motion for summary judgment regarding a real property dispute. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

Our review of the documents before us reveals a jurisdictional defect. Specifically, following entry of the challenged order, appellant filed a motion to set the order aside on September 24, 2022. When such a motion is filed within the time set forth in NRCP 59(e) and requests a substantive change to the order from which relief is sought, the motion to set aside tolls the time for filing a notice of appeal. *See AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010) (recognizing that courts generally treat certain post-judgment motions, including requests to reconsider or set aside a decision, as tolling motions so long as the motion is timely filed and seeks a substantive change in the challenged order, and applying that rule in the context of a motion for reconsideration); *see also* NRAP 4(a)(4)(C) (explaining that an NRCP 59(e) motion tolls the time for filing a notice of appeal).

Here, the district court docket demonstrates that no written order resolving the motion to set aside has been entered. Under these

circumstances, appellant's notice of appeal is premature, and thus, it does not divest the district court of jurisdiction or vest jurisdiction in the appellate courts. See NRAP 4(a)(6) ("A premature notice of appeal does not divest the district court of jurisdiction."). Accordingly, because we lack jurisdiction over this appeal, we

ORDER this appeal DISMISSED.



_____, J.
Herndon



_____, J.
Lee



Parraguirre

cc: Hon. Adriana Escobar, District Judge
Henry Crockett, II
Law Office of Mitchell Stipp
Eighth District Court Clerk