

IN THE SUPREME COURT OF THE STATE OF NEVADA

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
NEVADA DEPARTMENT OF  
CORRECTIONS,  
Respondent.

No. 86097

FILED

MAR 14 2023

ELIZABETH A. BYGONE  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK


*ORDER DISMISSING APPEAL*

This is a pro se appeal from a district court order denying a petition for a writ of mandamus. First Judicial District Court, Carson City; James Todd Russell, Judge.

Review of the notice of appeal and documents before this court reveals a jurisdictional defect. The district court docket sheet indicates that appellant timely filed a motion to alter or amend the challenged order on November 17, 2022. See NRCP 59(e) (a motion to alter or amend must be filed within 28 days of service of notice of entry of judgment). That motion tolled the time to file the notice of appeal. See NRAP 4(a)(4)(C) (a motion to alter or amend a judgment is a tolling motion). Appellant prematurely filed the notice of appeal before that motion was resolved in a written order entered by the district court. See NRAP 4(a)(6) (regarding premature notices of appeal). And it appears that the motion remains pending in the district court. Accordingly, this

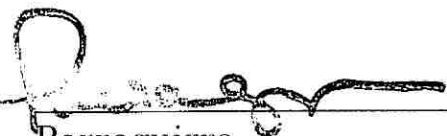
court lacks jurisdiction, *see id.* (“A premature notice of appeal does not divest the district court of jurisdiction.”), and

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

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

Herndon

 \_\_\_\_\_, J.  
Lee

 \_\_\_\_\_, J.  
Parraguirre

cc: Hon. James Todd Russell, District Judge  
Ferrill Joseph Volpicelli  
Attorney General/Carson City  
Carson City District Attorney  
Carson City Clerk

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<sup>1</sup>Appellant may file a new notice of appeal once the district court enters a written order resolving the motion to alter or amend.