

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY ALLEN KELLY,
Appellant,

No. 38369

FILED

vs.
DIANA LYNN KELLY,
Respondent.

JUL 26 2002

ORDER DISMISSING APPEAL

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

This is an appeal from a decree of divorce. Our preliminary review of the documents before this court revealed a potential jurisdictional defect. Specifically, it appeared the notice of appeal was filed after the timely filing of a tolling motion, and before the resolution of that tolling motion. See NRAP 4(a)(2). Accordingly, on May 14, 2002, we entered an order directing appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

On May 29, 2002, appellant filed a response to our May 14, 2002, order to show cause. In the response, appellant concedes that the notice of appeal was filed "while a tolling motion was pending." Appellant further states he "is not able to show cause why the appeal should not be dismissed." Accordingly, we conclude that this court lacks jurisdiction, and we dismiss this appeal.

It is so ORDERED.

Young
_____, J.
Young

Agosti
_____, J.
Agosti

Leavitt
_____, J.
Leavitt

cc: Hon. J. Michael Memeo, District Judge
Woodburn & Wedge
Stringfield Law Offices
Elko County Clerk