

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
LUIS MANUEL CANEDO,
Respondent.

No. 63561

FILED

NOV 14 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying appellant's motion for reconsideration. Seventh Judicial District Court, Eureka County; Steve L. Dobrescu, Judge.


Because "no appeal lies from an order denying a motion for reconsideration," *Phelps v. State*, 111 Nev. 1021, 1023, 900 P.2d 344, 345 (1995), we ordered appellant's counsel to show cause why this appeal should not be dismissed for lack of jurisdiction. In response, appellant urges this court to restrict *Phelps* to appeals in post-conviction proceedings. Appellant asserts that the order denying the motion for reconsideration is appealable pursuant to NRS 177.025 because the issue presented to the district court was solely a legal issue and it is appealable pursuant to NRS 177.015(1)(b) because it is the functional equivalent of both an order dismissing respondent's conviction and an order granting a new trial.

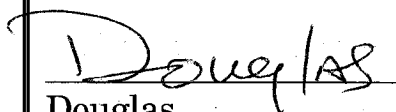
We decline to restrict *Phelps*. Further, contrary to appellant's assertion, NRS 177.025 does not authorize an appeal; rather, it prohibits this court from making findings of fact on appeal. We disagree that the district court's order denying appellant's motion for reconsideration is the

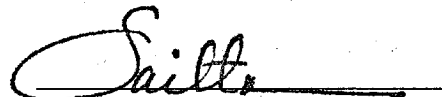
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functional equivalent of either an order dismissing a conviction or granting a new trial. It is clear from appellant's response that appellant wishes to challenge the district court's order granting respondent's motion to withdraw his guilty plea. That order was entered on March 13, 2012. Although appellant could have appealed from that order, *cf.*, *Hargrove v. State*, 100 Nev. 498, 686 P.2d 222 (1984), it did not do so and it is now time barred from doing so. See NRAP 4(b)(1)(B). Because no statute or court rule authorizes an appeal from an order denying a motion for reconsideration, such an order is not appealable. See *Castillo v. State*, 106 Nev. 349, 351-52, 792 P.2d 1133, 1134-35 (1990). Therefore, we lack jurisdiction to consider this appeal and we

ORDER this appeal DISMISSED.


Gibbons, J.


Douglas, J.


Saitta, J.

cc: Hon. Steve L. Dobrescu, District Judge
Attorney General/Carson City
Eureka County District Attorney
Justice Law Center
Eureka County Clerk