

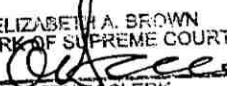
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSEPH CUSHMAN,
Appellant,
vs.
KEVIN HANRATTY; THOMAS C.
MICHAELIDES; AND ERIC TUCKER,
Respondents.

No. 84582-COA

FILED

FEB 07 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

Joseph Cushman appeals from a district court order dismissing the complaint in the underlying action. Eighth Judicial District Court, Clark County; David M. Jones, Judge.

Review of the notice of appeal and other documents before this court reveals a jurisdictional defect. In particular, the notice of appeal was prematurely filed in the district court because, prior to its filing, appellant filed a timely tolling motion—specifically a motion for reconsideration—on March 14, 2022, and a written order resolving that motion has not been entered by the district court. *See* NRAP 4(a)(4) (identifying certain motions as carrying tolling effect and contemplating the entry of a written order resolving such motions); NRAP 4(a)(6) (indicating that a notice of appeal is premature where it is filed before entry of a written order disposing of a timely-filed tolling motion); *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1194-95 (2010) (explaining when a post-judgment motion carries tolling effect). While the district court orally denied the motion on April 18, 2022, absent the entry of a written, file-stamped order resolving the motion, it remains pending below. *See* NRAP 4(a)(4), (6); *Div. of Child & Family Servs. v. Eighth Judicial Dist. Court*, 120

Nev. 445, 451, 454, 92 P.3d 1239, 1243, 1245 (2004) (explaining that dispositional court orders that address the merits of a case “must be written, signed, and filed before they become effective”). Thus, because the appeal from the underlying judgment is premature, we necessarily dismiss this appeal. See NRAP 4(a)(6) (“A premature notice of appeal does not divest the district court of jurisdiction.”).

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Dept. 29
Joseph Cushman
Eric Tucker
Hanratty Law Group
Thomas C. Michaelides
Eighth District Court Clerk