

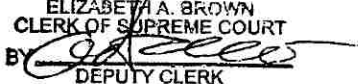
IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 86316

FILED

MAY 09 2023

ELIZABETH A. BROWN
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.¹ Accordingly, this court lacks jurisdiction, *see id.* (“A

¹The district court entered an order on January 18, 2023, denying appellant’s separate motion for leave to file a motion for reconsideration. However, to date, it appears the motion to alter or amend remains unresolved.

premature notice of appeal does not divest the district court of jurisdiction.”), and

ORDERS this appeal DISMISSED.²


_____, J.
Herndon


_____, J.
Lee



Parraguirre

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

²Appellant may file a new notice of appeal once the district court enters a written order resolving the motion to alter or amend.