

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMIE L. HANTGES,  
Appellant,  
vs.  
THOMAS A. HANTGES,  
Respondent.

No. 41928

FILED

DEC 13 2004

ORDER DISMISSING APPEAL

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

This is an appeal from a post-decree order denying an NRCP 59(e) motion to alter or amend a December 2002 district court oral ruling concerning an award of fees. Eighth Judicial District Court, Family Court Division, Clark County; Robert W. Lueck, Judge. Respondent has filed a motion to dismiss this appeal for lack of jurisdiction. Appellant opposes respondent's motion.

In May 2002, appellant filed a complaint for divorce. The district court minutes reveal that during a December 19, 2002 hearing, the district court stated that appellant would be awarded attorney fees so that appellant's counsel could pursue expert witness fees with regard to certain financial issues. No written order memorializing the district court's oral ruling was subsequently entered. Thereafter, the parties negotiated a divorce settlement. On May 6, 2003, the final divorce decree, which was signed and approved by both parties, was entered. The decree provided that "each party shall bear [his or her] own respective legal fees and costs." The divorce decree was served by mail on May 7, 2003. Appellant did not file a notice of appeal from the decree. On June 2, 2003, appellant filed in the district court an untimely NRCP 59(e) motion to alter or amend the district court's oral ruling concerning fees, made during the December 19, 2002 hearing.

On July 7, 2003, the district court entered an order denying appellant's NRCP 59(e) motion. The district court noted that while it was inclined to award fees during the December 2002 hearing, the focus of the hearing concerned appellant's motion for spousal support, and no amount for fees was ever discussed. Moreover, the court concluded that the "divorce was subsequently settled after protracted but thoughtful settlement negotiations. That forecloses any prior disputes unless otherwise expressly noted in the Decree."

Initially, we note that an order denying a motion to alter or amend is not appealable.<sup>1</sup> Additionally, an NRCP 59(e) motion must be filed within ten days of the date that written notice of entry of the judgment is served. Here, appellant filed her NRCP 59(e) motion well beyond the ten-day window; consequently, her motion did not toll the time for filing a notice of appeal.<sup>2</sup> And, we note that appellant did not appeal from the stipulated divorce decree in any event. It is well established that only aggrieved parties may appeal from a lower court decision.<sup>3</sup> A party is "aggrieved" within the meaning of NRAP 3A(a) when a district court's order adversely and substantially affects either a personal right or right of

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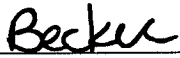
<sup>1</sup>NRAP 3A(b); see also Uniroyal Goodrich Tire v. Mercer, 111 Nev. 318, 320 n.1, 890 P.2d 785, 787 n.1 (1995) (observing that no appeal may be taken from an order denying a motion to alter or amend a judgment).

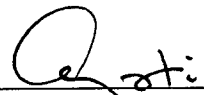
<sup>2</sup>See Ross v. Giacomo, 97 Nev. 550, 553, 635 P.2d 298, 300 (1981) (providing that timeliness of a tolling motion may affect the disposition of an appeal from an order denying a motion for new trial, and thus, a district court can do nothing except deny an untimely tolling motion).

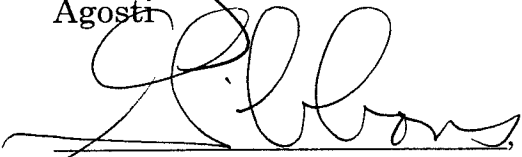
<sup>3</sup>See NRAP 3A(a).

property.<sup>4</sup> When a party stipulates to the entry of an order, that person cannot later attack it as adversely affecting that party's rights.<sup>5</sup> Thus, as this court lacks jurisdiction to consider this appeal, we grant respondent's motion and dismiss the appeal.

It is so ORDERED.<sup>6</sup>

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

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

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

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<sup>4</sup>Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 874 P.2d 729 (1994).

<sup>5</sup>See Vinci v. Las Vegas Sands, 115 Nev. 243, 246, 984 P.2d 750, 752 (1999); see also Cottonwood Cove Corp. v. Bates, 86 Nev. 751, 476 P.2d 171 (1970) (holding that a party is not aggrieved by a district court ruling in that party's favor); Patton v. Henrikson, 79 Nev. 197, 380 P.2d 916 (1963) (noting that a party is not aggrieved by a ruling solicited from the district court by that party).

<sup>6</sup>On July 9, 2004, appellant filed a motion for leave to file a supplement to the opposition motion to dismiss. That same day we received appellant's supplement. On August 23, 2004, we received respondent's response to appellant's July motion. On August 27, 2004, we filed respondent's motion to extend the time to file a response to appellant's supplemental opposition. On September 3, 2004, we filed respondent's response. We grant the parties' motions, and direct the clerk of this court to file appellant's supplement to the opposition provisionally received on July 9, 2004, and respondent's response received on August 23, 2004.

cc: Hon. Robert W. Lueck, District Judge, Family Court Division  
John Peter Lee Ltd.  
Jimmerson Hansen  
Clark County Clerk