

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY NEVADA,
DEPARTMENT OF AVIATION, A
POLITICAL SUBDIVISION OF THE
STATE OF NEVADA,

Appellant,

vs.

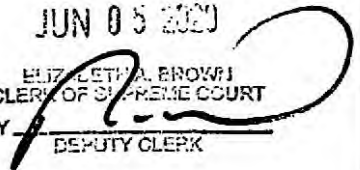
SOUTHERN NEVADA LABOR
MANAGEMENT COOPERATION
COMMITTEE, BY AND THROUGH ITS
TRUSTEES TERRY MAYFIELD AND
CHRIS CHRISTOPHERSEN; AND
OFFICE OF THE LABOR
COMMISSIONER,

Respondents.

No. 80798

FILED

JUN 05 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER TO SHOW CAUSE

This is an appeal from a district court order granting a petition for judicial review. This court's initial review of the docketing statement and documents before this court revealed a potential jurisdictional defect. It appeared that the notice of appeal was prematurely filed after the filing of a timely tolling motion for reconsideration but prior to entry of the written order formally resolving that tolling motion. See NRAP 4(a)(4); NRAP 4(a)(6); *AA Primo Builders LLC v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010) (describing when a post-judgment for reconsideration carries tolling effect). Accordingly, this court ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

In response, the parties assert that the motion for reconsideration did not actually seek reconsideration but simply sought clarification or confirmation of the findings in the judgment. Thus, it was not a tolling motion. This court disagrees. Appellant's motion for reconsideration alleged that the district court order erroneously retained jurisdiction, contained an improper conclusion of law regarding whether the project constituted maintenance, incorrectly made new factual findings, and improperly limited the manner in which the administrative agency makes its determinations. This motion sought a substantive alteration of the district court's order, not merely the correction of a clerical error or relief relating to a collateral matter. Thus, the motion carried tolling effect. See *AA Primo*, 126 Nev. at 585, 245 P.3d at 1195 ("[S]o long as a post-judgment motion for reconsideration is in writing, timely filed, states its grounds with particularity, and 'request[s] a substantive alteration of the judgment, not merely the correction of a clerical error, or relief of a type wholly collateral to the judgment,' 11 C. Wright, A. Miller & M. Kane, *supra*, § 2810.1, at 121, there is no reason to deny it NRCP 59(e) status, with tolling effect under NRAP 4(a)(4)(C)."). Because the motion was filed in the district court prior to the notice of appeal, the notice of appeal was premature and did not divest the district court of jurisdiction. See NRAP 4(a)(6).

Accordingly, appellant shall have 30 days from the date of this order to show cause why this appeal should not be dismissed for lack of jurisdiction. In responding to this order, in addition to points and authorities, appellant should provide a copy of any file-stamped district court order fully resolving the motion for reconsideration. Respondents may file any reply within 14 days of service of appellant's response. Failure to

demonstrate that this court has jurisdiction may result in the dismissal of this appeal.

The deadlines to file documents in this appeal remain suspended pending further order of this court.

It is so ORDERED.

Pickering, C.J.

cc: Fisher & Phillips LLP
Attorney General/Carson City
Attorney General/Reno
Christensen James & Martin