

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERICH M. MARTIN,
Appellant,
vs.
RAINA L. MARTIN,
Respondent.

No. 81810

ERICH M. MARTIN,
Appellant,
vs.
RAINA L. MARTIN,
Respondent.

No. 82517

FILED

APR 23 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

*ORDER DENYING MOTION TO DISMISS, GRANTING MOTIONS TO
CONSOLIDATE, AND GRANTING MOTIONS FOR EXTENSION OF
TIME*

Respondent has filed a motion to dismiss the appeal in Docket No. 82517 for lack of jurisdiction. Respondent contends that although the notice of appeal identifies an order filed in the district court on January 26, 2021, as the order challenged on appeal, the case appeal statement indicates that appellant challenges a different order—an order awarding attorney fees pendente lite. As no timely notice of appeal was filed from the December 31, 2020, order awarding attorney fees pendente lite, respondent contends this court lacks jurisdiction to consider a challenge to that order. Appellant’s counsel concedes that the notice of appeal identifies the incorrect order. She asserts, however, that the appeal should not be dismissed because, among other things, appellant’s intent to appeal from the attorney fees order was obvious, respondent was not misled by the notice of appeal, and appellant promptly filed an amended notice of appeal once counsel became aware of the error. Respondent replies that the text of the

notice of appeal does not indicate any intent to appeal from the attorney fees order and the amended notice of appeal was untimely.

In general, an order that is not identified in the notice of appeal is not considered by this court on appeal. *Abdullah v. State*, 129 Nev. 86, 90, 294 P.3d 419, 421 (2013). But a notice of appeal is not intended to be a technical trap for an unwary draftsman. *Lemmond v. State*, 114 Nev. 219, 220, 954 P.2d 1179, 1179 (1998). Where an intent to appeal from a judgment can be reasonably inferred and respondent is not misled, this court will not dismiss an appeal due to a technical defect in the notice of appeal. *Id.*

Here, the notice of appeal does not designate the December 31, 2020, order awarding attorney fees pendente lite,¹ and the amended notice of appeal which does identify that order was untimely filed. See NRAP 4(a)(1). However, the case appeal statement filed minutes after the notice of appeal, served on respondent, and transmitted to this court with the notice of appeal, clearly indicates that appellant challenges the attorney fee order. See *Forman v. Eagle Thrifty Drugs & Markets, Inc.*, 89 Nev. 533, 536, 516 P.2d 1234, 1236 (1973), *overruled on other grounds by Garvin v. Ninth Jud. Dist. Ct. ex rel. Cty. of Douglas*, 118 Nev. 749, 59 P.3d 1180 (2002) (looking to a document filed by appellant within the appeal period to determine intent to appeal from a particular judgment); see also *Abdullah*, 129 Nev. at 9, 294 P.3d at 421-22 (citing cases where courts have looked beyond the face of a notice of appeal to determine the order an appellant intended to appeal). Further, it does not appear, and respondent does not assert, that she was misled by the notice of appeal. Under these

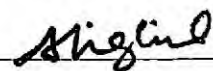
¹Appellant indicates that the original notice of appeal was labeled "Notice of Appeal (Fees Pendente Lite)." The notice of appeal bears no such label.

circumstances, the motion to dismiss is denied. The notice of appeal filed in the district court on February 12, 2021, shall be construed as an appeal from both the order identified therein and the district court's December 31, 2021, order.

Appellant's motions to consolidate these appeals are granted. NRAP 3(b)(2). These appeals are hereby consolidated. Appellant's motions to stay briefing, or for an extension of time to file the opening brief and appendix are granted to the following extent. Appellant shall have 30 days from the date of this order to file and serve a single appendix and a single opening brief that raises all issues in these appeals. Thereafter, briefing shall proceed in accordance with NRAP 31(a)(1). Failure to timely file the opening brief and appendix may result in the imposition of sanctions, including the dismissal of these appeals. NRAP 31(d).

It is so ORDERED.


Parraguirre, J.


Stiglich, J.


Silver, J.

cc: Marquis Aurbach Coffing
Willick Law Group