

IN THE SUPREME COURT OF THE STATE OF NEVADA

BARTHOLOMEW MAHONEY
Appellant,

vs.

BONNIE MAHONEY
Respondent.

Supreme Court No. 82412/82413
Electronically Filed
Jul 01 2021 09:15 a.m.
District Court No. D-Elizabeth A. Brown
Clerk of Supreme Court

RESPONSE TO ORDER TO SHOW CAUSE

COMES NOW Appellant, Bartholomew Mahoney, by and through his attorney, Aaron D. Grigsby, Esq. of The Grigsby Law Group, APC, and hereby submits this response to Order to Show Cause filed May 18, 2021.

MEMORANDUM OF POINTS AND AUTHORITIES

Nevada Rules of Appellate Procedure 4(a)(4) provides:

(4) Effect of Certain Motions on a Notice of Appeal. If a party timely files in the district court any of the following motions under the Nevada Rules of Civil Procedure, the time to file a notice of appeal runs for all parties from entry of an order disposing of the last such remaining motion, and the notice of appeal must be filed no later than 30 days from the date of service of written notice of entry of that order:

- (A) a motion for judgment under Rule 50(b);
- (B) a motion under Rule 52 (b) to amend or make additional findings of fact;
- (C) a motion under Rule 59 to alter or amend the judgment;
- (D) a motion for a new trial under Rule 59.

Mr. Mahoney filed a Motion to Set Aside under Nevada Rules of Civil Procedure 60(b) and submitted an application for an Order Shortening Time. His request for

an Order Shortening Time was denied. After the rejection of the request for an Order Shortening Time, Mr. Mahoney filed his Notice of Appeal to ensure a timely appeal as a Motion to Set Aside pursuant to NRCP 60(b) is not listed as tolling motion. He also filed a Motion for a Stay before the District Court. The Motion to Set Aside and the Motion for Stay were both set for March 25, 2021.

At the March 25, 2021, the District Court found that the Motion to Set Aside was moot due to the pending appeal and continued the Motion to Stay until March 26, 2021. At the March 26, 2021, hearing, as part of its ruling on the Motion for Stay, the Court made a finding that “there was nothing erroneous within the Order¹ and that the order was proper.”² Although, the order uses a singular rather than plural for both orders, the District Court was referring to both the Judgment and the Order for Attorney’s Fees as both were the subject of the Motion for Stay. The District Court made it clear that it was not going to set aside and/or modify the orders.

NRAP 4(a)(6) provides:

“A premature notice of appeal does not divest the district court of jurisdiction. The court may dismiss as premature a notice of appeal filed after the oral pronouncement of a decision or order but before entry of the written judgment or order, or before entry of the written disposition of the last-remaining timely motion listed in Rule 4(a)(4). If, however, a written order or judgment, or a written disposition of the last remaining timely motion listed in Rule 4(a)(4), is entered

¹ December 28, 2021, Order

² See Order after March 26, 2021 hearing, page 2, lines 11-12

before dismissal of the premature appeal, the notice of appeal shall be considered filed on the date of and after entry of the order, judgment or written disposition of the last-remaining timely motion.”

Here, the Notice of Entry of Order that was filed on May 5, 2021 disposed of the Motion to Set Aside. As such, if the Motion to Set Aside is deemed a tolling motion, then under NRAP 4(a)(6) this Court has jurisdiction to rule on the pending appeals.

CONCLUSION

This Court has jurisdiction to hear the appeals. Mr. Mahoney respectfully requests that this address the merits of his appeals.

DATED this 1st day of July, 2021.

RESPECTFULLY SUBMITTED

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 1st day of July, 2021 a copy of the foregoing Response to Order to Show Cause was served as follows:

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