

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Nov 23 2021 05:44 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

TERESA ANN GREVELLE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Supreme Court No. 83579

RESPONDENT'S REPLY TO
APPELLANT'S RESPONSE TO
ORDER TO SHOW CAUSE
ENTERED OCTOBER 20, 2021

COMES NOW, the Respondent STATE OF NEVADA, by and through Michael Macdonald, Humboldt County District Attorney, and Anthony R. Gordon, Humboldt County Deputy District Attorney, and hereby files this Reply to Appellant's Response to Order to Show Cause Entered October 20, 2021. This Reply is based on the following Points and Authorities, and all pleadings on file herein.

Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

DATED this 23rd day of November, 2021.

MICHAEL MACDONALD
Humboldt County District Attorney

By: Anthony R. Gordon
ANTHONY R. GORDON
Deputy District Attorney

MEMORANDUM OF POINTS AND AUTHORITIES

I.
INTRODUCTION

Respondent, STATE OF NEVADA, files this Appellant's Response to Order to Show Cause Entered October 20, 2021. Respondent in this pleading does not represent the Nevada Department of Public Safety, Division of Parole and Probation, instead represents only the State of Nevada's prosecution interests through the Humboldt County District Attorney's Office. Respondent's position in this responsive pleading is that if this Court determines that the District Court's Order of Dismissal entered on June 21, 2021 was a final order, as a result this appeal is untimely filed under *Nevada Rule of Appellate Procedure (NRAP) 4(b)(1)(A)*.

II.
FACTS

On July 7, 2014, the Appellant was convicted and sentenced to a term of twelve (12) months to thirty-two (32) months in the Nevada Department of Corrections for Embezzlement in violation of *NRS 205.300*, which was suspended and the Appellant was placed on probation for a period of sixty months, and was ordered to make restitution payments to the victim in this matter Steve Lucas/Lucus Livestock, to whom the embezzlement was from, in the amount of \$65,000 in monthly payments of no less than \$1,500.00 per month.

Subsequently, on May 10, 2020, an Order was filed by this Court vacating the previously filed Order, entered on December 18, 2017, Honorably Discharging the Appellant from probation, as the Court found that it had entered the December 18, 2017 Discharge Order, on the mistaken belief that restitution, if any, had been fully paid, and then re-imposing probation on the Appellant. The current balance owed by the Appellant to the victim from her original criminal case is approximately \$22,700.00, as shown by the Civil Confession of Judgment filed in this case on April 4, 2018.

III. **LEGAL ARGUMENT**

This Court has previously ruled that finality of a district court’s decision is not based up its label as an “order or “judgment,” but rather on what the decision substantially accomplishes,” *citing e.g., Lee v. GNLV Corp.*, 116 Nev 424, 427, 996 P.2d 416, 417-18 (2000) and *Bally’s*

1 *Grand Hotel v. Reeves*, 112 Nev 1487, 929 P.2d 936 (1996). (See Order allowing Appeal to
2 *Proceed and to Show Cause Regarding Cross-Appeal*, filed on August 31, 2021, page 2).

3 In the present case, the District Court's July 21, 2021 Order for Dismissal was a final
4 order in this case, disposing of all the issues, even if the District Court did not issue a definitive
5 or a particularized rationale and analysis for its decision, since after the District Court's July 21,
6 2021 Order for Dismissal, there were no pleadings pending before the District Court for decision,
7 nor was one anticipated. (See Order for Dismissal in *Teresa Ann Gravelle v. The State of*
8 *Nevada*, Case #CR 1206043, filed June 21, 2021). It is well settled law in this Court that a
9 Motion for Reconsideration is not a tolling motion for purposes of NRAP (4)(A). See Chapman
10 Indus. United Ins. Co. of America, 110 Nev. 454, 874 P.2d 739 (1994). As a result, Appellant's
11 present appeal in this case must be dismissed as untimely.
12

13
14 **IV**
15 **CONCLUSION**

16 Based on the above legal arguments, Appellant has failed to justify the basis for her
17 cross-appeal in this case, and it should therefore be dismissed for a lack of jurisdiction.

18 Furthermore, pursuant to *NRS 239B.030*, the undersigned hereby affirms this document
19 does not contain the social security number of any person.

20
21 **DATED** this 23rd day of November, 2021.

22 MICHAEL MACDONALD
23 Humboldt County District Attorney

24 By: Anthony R. Gordon
25 ANTHONY R. GORDON
26 Deputy District Attorney
27 Nevada State Bar No. 2278
28 Humboldt County District Attorney's Office
Winnemucca, Nevada 89446
(775) 623-6360

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Pursuant to NRCP 5(b) I certify that I am an employee of the Humboldt County District Attorney's Office, and that on the 23rd of November, 2021, I delivered a copy of the **RESPONDENT'S REPLY TO APPELLANT'S RESPONSE TO ORDER TO SHOW CAUSE ENTERED AUGUST 20, 2021** to:

AARON FORD
Nevada Attorney General
100 N. Carson Street
Carson City, NV 89701

- A. Qura