

IN THE SUPREME COURT OF THE STATE OF NEVADA

BARTHOLOMEW M. MAHONEY, JR.,
Appellant,

vs.

BONNIE M. MAHONEY,
Respondent.

No. 82412

BARTHOLOMEW M. MAHONEY, JR.,
Appellant,

vs.

BONNIE M. MAHONEY,
Respondent.

No. 82413

FILED

MAY 18 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER TO SHOW CAUSE

These appeals are from a post-divorce decree order reducing arrearages to judgment and an order awarding attorney fees and costs. Preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(g) reveals a potential jurisdictional defect in Docket No. 82412. Specifically, it appears the notice of appeal was filed after the timely filing of a tolling motion under NRAP 4(a)(2) and before the tolling motion was formally resolved. The findings of fact, conclusions of law and judgment were filed on December 24, 2020, with notice of entry filed and served on December 28, 2020. The order awarding fees and costs was entered January 11, 2021. Appellant's timely "Motion to Set Aside Findings of Fact, Conclusions of Law, Order and Judgment from the December 3, 2020 Evidentiary Hearing and Order Granting Attorney's Fees and Costs," challenging both the judgment and the award of fees and costs was filed on January 25, 2021, and had not been resolved by the district court before the notice of appeal was filed on January 26, 2021.

On April 12, 2021, the district court entered an order declining to address the motion to set aside the findings of fact and conclusions of law

because the court noted the notice of appeal had been filed. However, a timely tolling motion terminates the 30-day appeal period, and a notice of appeal is of no effect if it is filed after such a tolling motion is filed, and before the district court enters a written order finally resolving the motion. *See* NRAP 4(a)(2). At this point, the district court retains jurisdiction to resolve the motion to set aside the findings of fact and conclusions of law, order and judgment.¹ *See* NRAP 4(a)(6).

Accordingly, appellant shall have 30 days from the date of this order within which to show cause why the appeal in Docket No. 82412 should not be dismissed for lack of jurisdiction. Failure to demonstrate that this court has jurisdiction may result in this court's dismissal of the appeal. The deadlines for filing documents in these appeals shall be suspended pending further order of this court. Respondent may file any reply within 14 days from the date that appellant's response is served.

It is so ORDERED.²

1. Sandeely, C.J.

cc: The Grigsby Law Group
Radford J. Smith, Chartered

¹This court notes the district court did resolve the challenge to the order granting attorney fees and costs on May 3, 2021; therefore it appears that jurisdiction has vested in this court for purposes of Docket No. 82413. *See* NRAP 4(a)(6).

²This court defers ruling on appellant's motion for stay pending resolution of the jurisdictional issues.