


IN THE SUPREME COURT OF THE STATE OF NEVADA

WESLEY RUSCH,
Appellant,
vs.
THE MARTIN CONDOMINIUM UNIT
OWNERS' ASSOCIATION,
Respondent.

No. 85821

FILED

JAN 20 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

**ORDER DENYING MOTION TO DISMISS, REGARDING
TRANSCRIPTS, AND DIRECTING TRANSMISSION OF RECORD**

This is a pro se appeal. Respondent has filed a motion to dismiss this appeal for lack of jurisdiction.

Respondent argues that appellant improperly identified a minute order in his notice of appeal, improperly appeals from an order denying reconsideration, and that the time to appeal from the underlying judgment has passed. Having reviewed respondent's motion and the documents on file in this appeal, the motion is denied.

This court infers that appellant's notice of appeal intended to challenge the district court's June 30, 2022, order granting respondent's motion to dismiss, or in the alternative, motion for summary judgment. The notice of appeal is timely filed after service of notice of entry of the district court's order denying reconsideration. *See Forman v. Eagle Thrifty Drugs & Markets, Inc.*, 89 Nev. 533, 536, 516 P.2d 1234, 1236 (1973) ("A defective notice of appeal should not warrant dismissal for want of jurisdiction where the intention to appeal from a specific judgment may be reasonably inferred from the text of the notice and where the defect has not materially misled the appellee."), *overruled on other grounds by Garvin v. Ninth Judicial Dist. Court*, 118 Nev. 749, 59 P.3d 1180 (2002); *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010) (describing

when a post-judgment motion carries tolling effect). Here, it is reasonable to make this inference from the notice of appeal, and it does not appear that the notice of appeal has materially misled respondent. Accordingly, this appeal may proceed.

Appellant, who is proceeding in forma pauperis, has filed a transcript request form pursuant to NRAP 9(b). At this stage of the proceedings, this court is unable to determine which transcripts, if any, are necessary for this court's review on appeal, *see* NRAP 9(b)(1)(C), and therefore, the court declines to order the preparation of the requested transcripts at this time. However, as this appeal proceeds, the court will consider the necessity of transcripts and may order their preparation at a later date.

This court concludes that review of the complete record is warranted. NRAP 10(a)(1). Accordingly, within 30 days from the date of this order, the clerk of the district court shall transmit to the clerk of this court a certified copy of the trial court record in consolidated District Court Case Nos. A-21-840526-C and A-20-826568-C. *See* NRAP 11(a)(2) (providing that the complete "record shall contain each and every paper, pleading and other document filed, or submitted for filing, in the district court," as well as "any previously prepared transcripts of the proceedings in the district court"). The record shall not include any exhibits filed in the district court. NRAP 11(a)(1).

It is so ORDERED.

_____*Stiglin*_____, C.J.

cc: Wesley Rusch
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Eighth District Court Clerk