

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

VICKY WOOD, ) No. 1 CA-CV 11-0294  
)  
Appellant, ) DEPARTMENT D  
)  
v. ) Yuma County  
) Superior Court  
LORETTE PITTSCH, as Personal ) No. S1400CV200400971  
Representative of the ESTATE OF )  
ROSS RODENBAUGH, )  
) **D E C I S I O N**  
Appellee. ) **O R D E R**  
)  
\_\_\_\_\_ )



DIVISION ONE  
FILED: 03/20/2012  
RUTH A. WILLINGHAM,  
CLERK  
BY: DLL

This matter was scheduled for conference on March 28, 2011, before Presiding Judge Peter B. Swann and Judge Michael J. Brown and Judge Jon W. Thompson. While preparing for the scheduled conference, we determined that we lack jurisdiction over this appeal. See *Sorensen v. Farmers Ins. Co.*, 191 Ariz. 464, 465, 957 P.2d 1007, 1008 (App. 1997) (stating this court has an independent duty to determine whether it has appellate jurisdiction).

Vicky Wood appeals from the superior court's order denying her motion for new trial pursuant to Arizona Rule of Civil Procedure 59(a)(1), (2) and (8). Judgments for partition were entered in March 2007 and June 2008. See *Wood v. Pittsch*, 1 CA-

CV 09-0201, 2010 WL 711814, at \*2-3, ¶¶ 11, 14 (Ariz. App. Mar. 2, 2010) (mem. decision). Wood filed her motion for new trial on February 15, 2011. The superior court entered its order denying the motion on March 2, 2011, and Wood filed her notice of appeal on April 1, 2011.

Arizona Rule of Civil Procedure 59(d) requires motions for new trial to be filed not later than 15 days after entry of the judgment. Our review of the record indicates Wood's new trial motion filed February 15, 2011 constitutes a challenge to the trial court's appealable orders entered on or about March 24, 2007. Thus, Wood filed the motion for new trial well beyond the 15-day limit imposed by Rule 59(d).

Because the new trial motion was untimely, the trial court did not have authority to rule on it. See *Einboden v. Martin*, 70 Ariz. 245, 247-48, 219 P.2d 330, 332 (1950) (finding when motion for new trial is filed untimely, the trial court lacks jurisdiction to rule on the motion). This court's jurisdiction derives from the superior court's jurisdiction; that is, if the superior court lacks jurisdiction to decide a matter, we similarly do not have jurisdiction. See *Olds Bros. Lumber Co. v. Rushing*, 64 Ariz. 199, 208, 167 P.2d 394, 399 (1946) (noting "the well-established rule that an appellate court acquires no jurisdiction in an appeal where the trial court, or lower court, had no jurisdiction of the cause"). Accordingly, because the

superior court did not have jurisdiction to rule on Wood's new trial motion, we do not have jurisdiction to consider this appeal, and we must dismiss it. See *McHazlett v. Otis Eng'g Corp.*, 133 Ariz. 530, 533, 652 P.2d 1377, 1380 (1982) ("If a lower court has no jurisdiction to issue an order[,], an appeal from that order gives the appellate court no jurisdiction except to dismiss the appeal.").

**IT IS ORDERED** dismissing this appeal for lack of jurisdiction.

/s/

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MICHAEL J. BROWN, Judge