

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2006

AGERE SYSTEMS INC.,

Appellant,

v.

Case No. 5D06-347

ALL AMERICAN CRATING, INC., ET AL.,

Appellee.

Opinion filed June 16, 2006

Non Final Appeal from the Circuit
Court for Orange County,
Janet C. Thorpe, Judge.

James W. Carbin and Sheila Raftery
Wiggins of Duane Morris LLP, Newark,
and Eric Saida, of Duane Morris LLP,
Miami, for Appellant.

Christian D. Keedy of Christian D. Keedy,
P.A., Miami, for Appellee.

MONACO, J.

The appellant, Agere Systems, Inc., seeks review of a non-final order denying a motion for reconsideration of an earlier order. A motion for reconsideration does not toll the time to file an appeal from a non-final order. *See Caufield v. Cantele*, 837 So. 2d 371, 376, n. 3 (Fla. 2002). The reason, of course, is that motions addressed to non-final orders are not “authorized” within the meaning of Rule 9.020(h), Florida Rules of Appellate Procedure, and thus do not postpone rendition. *See Deal v. Deal*, 783 So. 2d

319, 321 (Fla. 5th DCA 2001); *Coldwell Banker Commercial v. Wightman*, 649 So. 2d 346, 347 (Fla. 5th DCA 1995).

In the present case the underlying non-final order was rendered on November 4, 2005. The underlying order was an appealable non-final order pursuant to Rule 9.130, Florida Rules of Appellate Procedure, but review of it had to be initiated by the filing of a notice of appeal within thirty days of November 4, 2005. See Fla. R. App. P. 9.130(b). The order denying the motion for reconsideration was entered on December 19, 2005. The appeal to this court was filed on January 11, 2006, well in excess of the allowable time.

Moreover, an order that simply denies a motion for reconsideration or rehearing of an underlying *non-final* order, such as the one sought to be appealed in this case, is not in itself an appealable order. See *Richardson v. Watson*, 611 So. 2d 1254 (Fla. 2d DCA 1992). Since the notice of appeal was filed more than thirty days from the date of the underlying order for which reconsideration was sought, we do not have jurisdiction to review this matter. Accordingly, in the absence of jurisdiction, we dismiss the appeal.

DISMISSED.

PLEUS, C.J. and SHARP, W., J., concur.