

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE MARRIAGE OF:

JAMES A. COX,
Petitioner/Appellee,

and

STEPHANIE AAMES FKA STEPHANIE COX,
Respondent/Appellant.

No. 2 CA-CV 2014-0148
Filed April 28, 2015

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pinal County
No. S1100DO201300198
The Honorable Daniel A. Washburn, Judge

APPEAL DISMISSED

Stephanie Aames, Herkimer, NY
In Propria Persona

MEMORANDUM DECISION

Presiding Judge Kelly authored the decision of the Court, in which Judge Howard and Judge Vásquez concurred.

IN RE THE MARRIAGE OF COX
Decision of the Court

K E L L Y, Presiding Judge:

¶1 Stephanie Aames appeals from the trial court’s division of the marital assets following the dissolution of her marriage to James Cox, and the court’s denial of her motions for reconsideration and for a new trial. For the following reasons, we dismiss her appeal for lack of jurisdiction.

Factual and Procedural Background

¶2 Cox petitioned for dissolution of his seven-year marriage to Aames in February 2013. After the decree of dissolution was entered in March 2014, Aames moved for a new trial and for reconsideration. In addition to challenging various evidentiary and procedural rulings, Aames argued the trial court erred by awarding the marital home, located in Casa Grande, Arizona, to Cox as his separate property. The court denied Aames’s motion for reconsideration, but granted in part her motion for a new trial as to the sole issue of whether the Casa Grande property was community property and, if so, how it should be divided.

¶3 After a bench trial, the trial court determined the Casa Grande residence was community property but that the debt on the home was greater than its value. The court therefore ordered Aames to transfer her interest in the property to Cox and awarded her \$400 as her “portion of an amount the parties would possibly receive from the lender if the real property were sold at a short sale.” Aames again moved for a new trial and for reconsideration of the judgment, which the court denied. This appeal followed.

Discussion

¶4 Although Aames contends that her appeal is “authorized” by A.R.S. § 12-2101, we have an independent duty to examine our jurisdiction over an appeal. *Baker v. Bradley*, 231 Ariz. 475, ¶ 8, 296 P.3d 1011, 1014 (App. 2013). Filing a timely notice of appeal is a “jurisdictional prerequisite to appellate review,” *In re Marriage of Gray*, 144 Ariz. 89, 90, 695 P.2d 1127, 1128 (1985), and

IN RE THE MARRIAGE OF COX
Decision of the Court

when an “appeal is not timely filed, the appellate court acquires no jurisdiction other than to dismiss the attempted appeal,” *James v. State*, 215 Ariz. 182, ¶ 11, 158 P.3d 905, 908 (App. 2007), quoting *Edwards v. Young*, 107 Ariz. 283, 284, 486 P.2d 181, 182 (1971).

¶5 A notice of appeal must be filed no later than thirty days after the entry of the judgment from which the appeal is taken. Ariz. R. Civ. App. P. 9(a). When a party timely files a time-extending motion, the time for filing an appeal is extended to thirty days after entry of the trial court’s ruling on the motion. Ariz. R. Civ. App. P. 9(a), (e)(1). A timely motion for a new trial filed pursuant to Rule 83(A), Ariz. R. Fam. Law P., is one such time-extending motion. Ariz. R. Civ. App. P. 9(e)(1)(D) (“timely and properly file[d]” Rule 83(A) motion for new trial extends time to file appeal).

¶6 The trial court’s under-advisement ruling on the division of community property was filed on August 4, 2014. Aames filed a motion for reconsideration and for a new trial on August 22, and the court denied both in October 2014. Aames subsequently filed a notice of appeal from the court’s August ruling. But a party seeking a new trial must file its motion “not later than fifteen . . . days after entry of the judgment.” Ariz. R. Fam. Law P. 83(D)(1). Aames therefore was required to file her motion for a new trial on or before August 19.

¶7 Aames did not file her motion for a new trial until August 22; accordingly, the motion was not “timely and properly” filed such that it extended the time within which she could file her notice of appeal.¹ Because Aames did not file a timely motion for new trial, the time for filing her notice of appeal began when the trial court issued its under-advisement ruling on August 4. See Ariz. R. Civ. App. P. 9(a). As noted above, Aames was required to file a notice of appeal not later than thirty days after entry of the August 4

¹Although Aames’s motion for reconsideration was timely filed, a motion for reconsideration is not a time-extending motion. See Ariz. R. Fam. Law P. 84(D), (E); Ariz. R. Civ. App. P. 9(e).

IN RE THE MARRIAGE OF COX
Decision of the Court

ruling. *See id.* But Aames did not file her notice of appeal until November 3, well beyond the time limit set by our appellate rules. We therefore lack jurisdiction to consider her appeal. *See James*, 215 Ariz. 182, ¶ 11, 158 P.3d at 908.

Disposition

¶8 For the foregoing reasons, we dismiss Aames's appeal for lack of jurisdiction.