

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of T.B. and A.B., persons)	(Not For Official Publication)
under eighteen years of age.)	Case No. 20070706-CA
_____)	
)	
W.B.,)	F I L E D
)	(October 25, 2007)
Appellant,)	
)	2007 UT App 347
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 524193
The Honorable Andrew A. Valdez

Attorneys: Julie George, Salt Lake City, for Appellant
Mark L. Shurtleff and Carol L.C. Verdoia, Salt Lake
City, for Appellee

Before Judges Greenwood, Davis, and McHugh.

PER CURIAM:

W.B. (Mother) appeals the juvenile court's adjudication order finding her children to be neglected. Because this court lacks jurisdiction over this appeal, we must dismiss it.

The juvenile court entered its adjudication order on April 13, 2007. Adjudication orders are final orders for purposes of appeal. See In re S.A.K., 2003 UT App 87, ¶ 13, 67 P.3d 1037. Under Utah Rule of Appellate Procedure 52, Mother's notice of appeal must have been filed within fifteen days after the entry of the adjudication order. See Utah R. App. P. 52(a). The time for filing the notice of appeal would be tolled only if a timely motion pursuant to rules 50(b), 52(b), or 59 of the Utah Rules of Civil Procedure was filed with the juvenile court. See id.

Mother did not file one of the motions listed, but filed a motion for review, construed by the juvenile court as a motion to reconsider. However, "filings of postjudgment motions to

reconsider will not toll the time for appeal." Gillett v. Price, 2006 UT 24, ¶ 1, 135 P.3d 861. The Utah Supreme Court has completely rejected the practice of filing postjudgment motions for reconsideration. See id. Based on Gillett, this court noted that postjudgment motions to reconsider "will no longer be recognized by this court." Radakovich v. Cornaby, 2006 UT App 454, ¶ 5, 147 P.3d 1195. Accordingly, Mother's motion to reconsider did not toll the time for appeal from the adjudication order. Mother's notice of appeal was due fifteen days after the entry of the adjudication order notwithstanding her motion to reconsider. Mother did not file her notice of appeal until September 4, 2007, and, thus, her notice of appeal is untimely.

Furthermore, the August 24, 2007 entry of an order denying Mother's motion to reconsider and restating the adjudication order did not renew the time for appeal. The Utah rule regarding amended judgments is well settled. "Where a belated entry merely constitutes an amendment or modification not changing the substance or character of the judgment, such entry is merely a nunc pro tunc entry which relates back to the time the original judgment was entered, and does not enlarge the time for appeal." State v. Garner, 2005 UT 6, ¶ 11, 106 P.3d 729. Only if a modified entry contains a material change will the time for appeal start anew. See id. Here, there was no modification, but simply a re-entry of the April 13 adjudication order as part of the denial of a motion to reconsider. Therefore, the effective date of the adjudication order remains April 13, and Mother's appeal is untimely. Because Mother's notice of appeal was untimely filed, this court lacks jurisdiction and must dismiss the appeal. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶ 7, 13 P.3d 616.

Dismissed.

Pamela T. Greenwood,
Associate Presiding Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge