

IN THE UTAH COURT OF APPEALS

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Heidi Eddy,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20080138-CA	
v.)		
)		
<u>Charles J. Eddy, Renee B.</u>)	F I L E D	
<u>Eddy, and Blaine Eddy,</u>)	(April 24, 2008)	
)		
Defendants and Appellants.)	<table border="1"><tr><td>2008 UT App 149</td></tr></table>	2008 UT App 149
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Second District, Farmington Department, 050700497
The Honorable Rodney S. Page

Attorneys: Charles J. Eddy and Renee B. Eddy, Ogden,
Appellants Pro Se
Christina L. Micken, Salt Lake City, for Appellee

Before Judges Greenwood, Davis, and McHugh.

PER CURIAM:

Charles J. Eddy and Renee B. Eddy (the Eddys) appeal the district court's final judgment entered on December 28, 2007, and the subsequent denial of their rule 60(b) motion entered on February 2, 2008. This is before the court on its own motion for summary disposition.

The Eddys filed a single notice of appeal after the denial of their rule 60(b) motion. In the notice of appeal, they seek to appeal both the denial of their motion and the underlying judgment. The notice of appeal regarding the rule 60(b) motion is timely and this court has jurisdiction to consider it. However, the notice of appeal regarding the underlying judgment is untimely.

The Eddys argue that the district court erred in denying their rule 60(b) motion for relief from judgment. A ruling on a rule 60(b) motion is a separate, appealable order. See Amica Mut. Ins. Co. v. Shettler, 768 P.2d 950, 970 (Utah Ct. App. 1989). An appeal from a rule 60(b) motion is narrow in scope and addresses only the propriety of the denial or grant of relief from judgment. See Franklin Covey Client Sales, Inc. v. Melvin,

2000 UT App 110, ¶ 19, 2 P.3d 451. An appeal from a rule 60(b) motion does not generally reach the merits of the underlying judgment from which relief was sought or provide a basis for this court to review the legal issues previously adjudicated by the district court. See id. ¶ 23.

The Eddys' rule 60(b) motion did not raise any of the grounds for relief contained in rule 60(b) of the Utah Rules of Civil Procedure. Rather, the Eddys' motion sought to re-litigate issues previously adjudicated by the district court. Because there was no proper basis for their rule 60(b) motion, the trial court did not err in denying the motion.

The Eddys also seek to appeal the underlying judgment. Pursuant to rule 4 of the Utah Rules of Appellate Procedure, a notice of appeal must be filed within thirty days after the entry of the judgment or the order appealed. See Utah R. App. P. 4(a). If an appeal is not timely filed, this court lacks jurisdiction to consider the appeal. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶ 7, 13 P.3d 616. Furthermore, a motion made under rule 60(b) of the Utah Rules of Civil Procedure does not toll the time for appeal from the final judgment. See Shettler, 768 P.2d at 970. The Eddys filed their notice of appeal on February 11, 2008, more than thirty days after the entry of judgment. Thus, this court lacks jurisdiction to consider any issues raised from the underlying judgment.

Accordingly, the district court's order is affirmed.

Pamela T. Greenwood,
Presiding Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge