Filed 10/20/15 Everett-Dicko v. Jernegan CA1/3

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

SHIRLEY EVERETT-DICKO, Plaintiff and Appellant, v. DOROTHY KING JERNEGAN et al., Defendants and Respondents.	A145524 (Alameda County Super. Ct. No. RG12634726)

Respondents filed a motion to dismiss the appeal upon the contention that appellant Shirley Everett- Dicko, appearing in propria persona, seeks to appeal a nonappealable postjudgment order and, to the extent her notice of appeal relates to the judgment itself, the appeal is untimely. Appellant filed no opposition to the motion. We shall dismiss the appeal.

A bench trial was held in March 2015 on a business dispute alleging breach of contract and related claims. On April 9, 2015, the trial court filed its judgment. The next day, April 10, appellant was served with notice of entry of judgment. On April 17, appellant filed a motion for reconsideration of the judgment, which was denied on April 30, 2015. Defendant filed another motion on May 8, asking the court for "clarification" of its order denying reconsideration. The court denied this second motion on May 28. Appellant filed a notice of appeal on June 25, seeking to appeal only the order of May 28 denying her second motion for reconsideration but her "Civil Case Information Statement" says she is appealing the judgment and the postjudgment order denying reconsideration.

The order referenced in appellant's notice of appeal is not appealable. An order denying a motion for reconsideration—or a second motion for reconsideration—is not separately appealable and is reviewable only on an appeal from the underlying order. (Code Civ. Proc., § 1008, subd. (g); *Tate v. Wilburn* (2010) 184 Cal.App.4th 150, 159-160.) Liberally construing appellant's notice of appeal as an appeal from the judgment cannot save the appeal. A notice of appeal must be filed 60 days after service of notice of entry of judgment. (Cal. Rules of Court, rule 8.104(a)(1)(B).) Appellant was served with notice of entry of judgment on April 10, so the last day to file notice of appeal was June 9, 2015. Appellant did not file her notice of appeal until June 25, 2015.

Appellant's motion for reconsideration did not extend the time to appeal. A valid motion to reconsider an appealable order does provide an extension of time (Cal. Rules of Court, rule 8.108(e)) but a motion to reconsider a *judgment* is not a valid motion "because after entry of judgment, a trial court has no further power to rule on a motion for reconsideration." (*Ramon v. Aerospace Corp.* (1996) 50 Cal.App.4th 1233, 1236.) "[I]f the trial court has no power to rule on a reconsideration motion after judgment, such a motion can have no effect on the period within which to file a notice of appeal." (*Id.* at p. 1238.) *Ramon* is not alone in holding that a reconsideration motion filed after judgment does not extend the time for filing a notice of appeal. (*Safeco Ins. Co. v. Architectural Facades Unlimited, Inc.* (2005) 134 Cal.App.4th 1477, 1481-1482; *Passavanti v. Williams* (1990) 225 Cal.App.3d 1602, 1605; see Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2015) ¶ 3:94.7, p. 3-44.)

Appellant's notice of appeal is untimely. The time for appeal is jurisdictional—once the deadline expires, we have no authority to entertain the appeal: "[N]o court may extend the time to file a notice of appeal. If a notice of appeal is filed late, the reviewing court must dismiss the appeal." (Cal. Rules of Court, rule 8.104(b).)

Disposition

The appeal is dismissed.

Pollak, J.

We concur:

McGuiness, P. J.

Siggins, J.