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STATE OF NEBRASKA, APPELLEE, V. DANNY R. ROBINSON, JR., APPELLANT.

___ N.W.3d ___

Filed November 6, 2026. No. S-25-523.

1. **Jurisdiction.** A jurisdictional issue that does not involve a factual dispute presents a question of law.
2. **Jurisdiction: Appeal and Error.** Before reaching the legal issues presented for review, it is the duty of an appellate court to determine whether it has jurisdiction over the matter before it.
3. **Judgments: Final Orders: Time: Appeal and Error.** Typically, a party seeking to appeal from a judgment, decree, or final order made by the district court must file a notice of appeal in the district court within 30 days.
4. **Pleadings: Judgments: Time: Appeal and Error.** A timely motion to alter or amend a judgment terminates the time to file an appeal, and the full 30-day period to appeal begins to run from the entry of the order ruling upon the motion to alter or amend a judgment.
5. **Public Officers and Employees: Appeal and Error.** Where a duty is placed upon a public officer to perform acts necessary to perfect an appeal, the public officer's failure to perform cannot be charged to the litigant or operate to defeat the appeal.
6. **Negligence: Public Officers and Employees: Pleadings: Appeal and Error.** The appropriate filing procedure when an appeal is lost due to official negligence is for the party seeking relief to file a motion in the lower court, seeking the ability to establish the basis for obtaining relief.
7. **Legislature: Courts: Time: Appeal and Error.** When the Legislature fixes the time for taking an appeal, the courts have no power to extend the time directly or indirectly.

Appeal from the District Court for Douglas County: JEFFREY J. LUX, Judge. Appeal dismissed.

Danny R. Robinson, Jr., pro se.

Michael T. Hilgers, Attorney General, and Erin E. Tangeman for appellee.

Funke, C.J., Cassel, Stacy, Papik, Bergevin, and Vaughn, JJ., and Lee, District Judge.

Funke, C.J.

INTRODUCTION

How should a party who was not notified of the entry of the final judgment or other order finally disposing of the action raise that issue so as to preserve his or her right to appeal? In this case, Danny R. Robinson, Jr., proceeding pro se, argued in motions filed with the trial court that he was not timely notified of the court's order. Based on those arguments, but without receiving any evidence as to why Robinson was not notified of the order, the trial court concluded that a motion for reconsideration Robinson filed more than 10 days after any relevant order of the trial court was nonetheless "within the 10 day timeframe for a motion to alter or amend [a judgment]," with the apparent implication that the time for Robinson to file an appeal had been tolled. Because the time to file a notice of appeal cannot be extended in such a manner, Robinson's notice of appeal was untimely filed. As such, we lack jurisdiction over his appeal.

BACKGROUND

Robinson's Convictions and Direct Appeal

Robinson was convicted of first degree murder, use of a deadly weapon to commit a felony, and possession of a deadly weapon by a felon in connection with the shooting death of Daniel Lockett.[1] On direct appeal, we affirmed Robinson's

[1] See *State v. Robinson*, 271 Neb. 698, 715 N.W.2d 531 (2006), *disapproved on other grounds, State v. Hagens*, 320 Neb. 65, 26 N.W.3d 174 (2025).

convictions of all three charges and his sentences for the use and possession convictions. We vacated Robinson's sentence of life imprisonment "without parole" for the murder conviction and remanded the cause to the district court with directions to resentence Robinson to life imprisonment for the murder conviction.[2] Robinson was resentenced accordingly.

Robinson's First and Second Motions for Postconviction Relief

Robinson then filed a motion for postconviction relief. Initially, in an order entered on March 16, 2009, the district court denied some of Robinson's claims without an evidentiary hearing but granted an evidentiary hearing with respect to other claims. Later, in an order entered on February 18, 2010, the court denied Robinson's remaining claims after an evidentiary hearing.

Subsequently, Robinson, proceeding pro se, filed a "Second Motion for Postconviction Relief and Reinstatement of Appeal," claiming, in relevant part, that he was denied his right to appeal the denial of his first postconviction motion due to the "official negligence of the clerk of the district court."[3] The district court denied Robinson's motion because it believed it lacked jurisdiction over the matter insofar as a postconviction motion was an improper vehicle for seeking the reinstatement of an appeal.

Robinson appealed, and in an unpublished memorandum opinion, we reversed the decision of the district court and remanded the cause for further proceedings.[4] We explained that if Robinson was able to prove his claim that he had "forwarded the necessary paperwork to the district court to pursue an appeal, but that the paperwork was not filed" by the clerk

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[2] *Id*. at 738, 715 N.W.2d at 565.

[3] *State v. Robinson*, 287 Neb. 606, 610, 843 N.W.2d 672, 677 (2014).

[4] See *State v. Robinson*, 284 Neb. xix (No. S-11-1112, Nov. 26, 2012).

of the court, the district court would "have the ability, under its nunc pro tunc power, to record the filing of the appeal 'which through inadvertence or mistake was not truly recorded.'" On remand, the district court found after an evidentiary hearing that Robinson's notice of appeal from the February 18, 2010, order had been lost due to official negligence and not due to Robinson's actions. Accordingly, the district court reinstated Robinson's appeal from the February 18 order.

Thereafter, on appeal, we found that we lacked jurisdiction over Robinson's claims regarding the March 16, 2009, order because he did not timely appeal that order.[5] We also found that Robinson's claims regarding the February 18, 2010, order were meritless. As such, we affirmed the denial of Robinson's motion for postconviction relief.

Robinson then sought federal habeas corpus relief, which was denied.[6]

Present "Motion for Post-Conviction Relief and Motion for a New Trial"

On April 7, 2025, Robinson, again proceeding pro se, filed a "Motion for Post-Conviction Relief and Motion for a New Trial." In that filing, Robinson raised multiple claims of newly discovered evidence, ineffective assistance of counsel, prosecutorial misconduct, judicial error, and related matters. We need not recite the specific details of those claims here, because they are not relevant to our disposition of the present appeal.

On May 5, 2025, the district court issued an order denying Robinson's "Motion for Post-Conviction Relief and Motion for a New Trial" without a hearing. The clerk of the district court served copies of that order on Jessica P. Douglas and Katie L. Benson. Douglas was one of the attorneys who had

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[5] See *Robinson, supra* note 3.

[6] See, *Robinson v. Sabtka-Rine*, No. 17–1279, 2017 WL 4182108 (8th Cir. July 17, 2017); *Robinson v. Sabtka-Rine*, No. 8:14CV97, 2016 WL 4591898 (D. Neb. Sept. 2, 2016).

previously represented Robinson in connection with his prior motions for postconviction relief. Benson was formerly a deputy county attorney.

Subsequently, on May 21, 2025, in a single filing, Robinson submitted two additional copies of his "Motion for Post-Conviction Relief and Motion for a New Trial." Nothing in that filing indicates why Robinson did so, but a subsequent filing suggests he believed he had to submit two copies of the "Motion for Post-Conviction Relief and Motion for a New Trial" that he had filed on April 7.

On May 29, 2025, the district court entered another order, purporting to deny what is described as Robinson's May 21 "Motion for Post-Conviction Relief and Motion for a New Trial." The court said Robinson's May 21 filings were "identical" to his April 7 filings and that the court had addressed "all of these same issues" in its May 5 order. The clerk of the court again served copies of the order on Douglas and Benson. In addition, as discussed below, the court had its bailiff send Robinson a copy of the May 29 order.

On June 5, 2025, Robinson filed a "Motion to Amend Complaint," a "Motion to Stay Proceedings," and a notice of appeal. The appeal was not docketed because Robinson had not paid the docket fee or filed an application to proceed in forma pauperis and an accompanying poverty affidavit.

On June 10, 2025, the district court entered an order denying Robinson's motions to amend his complaint and stay the proceedings. In that order, the court noted that Robinson claimed he "only knew about the May 5, 2025 Order due to [the] Court's May 29, 2025 Order which [Robinson] did receive." The court initially said it appeared that Robinson had not notified the clerk to "change the address on th[e] case" to his own, rather than that of his prior defense counsel. But later, the court said:

> [It] believes the only reason [Robinson] was notified of the May 29, 2025 Order is because the Court

> took the additional step of having its own bailiff mail another copy of the Order to [Robinson] because it seemed there was a possibility [Robinson] may not have received its May 5, 2025 Order yet. As it stands now, it appears the Clerk of the District Court did not send [Robinson] either of the Court's Orders of May 5, 2025 or May 29, 2025. Whether this is due to error on the Clerk of the District Court's part or because [Robinson] did not update his contact information with the Clerk [of] the District Court is unknown to the Court at this time.

The court then noted that it was unclear whether Robinson had yet received its May 5 order. As such, the court said it would direct its bailiff to mail the June 10 order, along with the May 5 order, to Robinson.

Motion for Reconsideration

On June 24, 2025, Robinson filed a motion for reconsideration of the "Court[']s Decision," by which he apparently meant the May 5 order. Robinson claimed the motion was "timely" because, due to "a clerical error," he was not notified of the "Court[']s Decision" until June 16.

Two days later, on June 26, 2025, the district court overruled Robinson's motion for reconsideration, finding no merit to the substance of his claims. Yet in so doing, the court said:

> In [Robinson's] present motion he states that he did not get the May 5, 2025 Order until June 16, 2025. Therefore, [Robinson's] Motion for Reconsideration with a file stamp of June 24, 2025, would be within the 10 day timeframe for a motion to alter or amend [a judgment]. However, [Robinson] did file a Notice of Appeal on June 5, 2025, but such appeal has not been docketed yet by the appellate court . . . . As such, this Court will consider [Robinson's] Motion for Reconsideration.

Within 30 days of the June 26, 2025, order, Robinson filed a notice of appeal purporting to challenge the denial of his

motion for postconviction relief, his motion for a new trial, and his motion to amend his complaint. Robinson seemed to suggest that all three of those motions were "denied" on June 26. He also specifically stated he was "[a]ppealing" the May 5 order. At the same time, Robinson filed a "Poverty Affidavit and Application to Proceed In Forma Pauperis," which was granted.

The case was moved to our docket under Neb. Rev. Stat. § 24-1106(1) (Cum. Supp. 2024).

ASSIGNMENT OF ERROR

Robinsons assigns, restated, that the district court abused its discretion in dismissing his "motion for a new trial" without an evidentiary hearing.

STANDARD OF REVIEW

[1] A jurisdictional issue that does not involve a factual dispute presents a question of law.[7]

ANALYSIS

[2] In his briefs on appeal and in his arguments before this court, Robinson discussed the merits of his claims. But before reaching the legal issues presented for review, it is the duty of an appellate court to determine whether it has jurisdiction over the matter before it.[8] In this case, we must determine whether Robinson's notice of appeal was timely filed, because "the timely filing of a notice of appeal is a jurisdictional requirement."[9] For the reasons set forth below, we conclude that Robinson's notice of appeal was not timely filed.

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[7] *Streck, Inc. v. Ryan*, 320 Neb. 638, 29 N.W.3d 782 (2026).

[8] *Big Iron Auction Co. v. Harder Capital*, 321 Neb. 918, 38 N.W.3d 508 (2026).

[9] *In re Interest of Luz P. et al.*, 295 Neb. 814, 824, 891 N.W.2d 651, 659 (2017).

Motion for Reconsideration Did Not Toll Time to File Appeal

[3,4] Typically, a party seeking to appeal from a judgment, decree, or final order made by the district court must file a notice of appeal in the district court within 30 days.[10] This "includ[es]" appeals from "judgments and sentences upon convictions for felonies and misdemeanors."[11] However, a timely motion to alter or amend a judgment terminates the time to file an appeal, and the full 30-day period to appeal begins to run from the entry of the order ruling upon the motion to alter or amend a judgment.[12]

"[I]n some contexts, a motion for reconsideration may . . . be treated as a motion to alter or amend a judgment for purposes of terminating the appeal period."[13] But to be treated as a motion to alter or amend a judgment, a motion for reconsideration must be filed no later than 10 days after the entry of judgment and seek substantive alteration of the judgment.[14]

Robinson does not dispute that the operative notice of appeal was not filed within 30 days of the May 5, 2025, order. Instead, Robinson argues that his appeal was timely filed because the operative notice of appeal was filed within 30 days of the June 26 order denying his motion for reconsideration. In other words, based on the district court's statement that his motion for reconsideration was "within the 10 day timeframe

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[10] *State v. Meints*, 291 Neb. 869, 869 N.W.2d 343 (2015).

[11] Neb. Rev. Stat. § 25-1912(1) (Cum. Supp. 2024).

[12] *Bryson L. v. Izabella L.*, 302 Neb. 145, 921 N.W.2d 829 (2019).

[13] *State v. Harris*, 307 Neb. 237, 261, 948 N.W.2d 736, 754 (2020).

[14] See *id*. See, also, *Bryson L., supra* note 12, 302 Neb. at 150, 921 N.W.2d at 833 ("[i]n order to qualify for treatment as a motion to alter or amend a judgment, a motion must be filed no later than 10 days after the entry of judgment, as required under [Neb. Rev. Stat.] § 25-1329 [(Reissue 2016)], and must seek substantive alteration of the judgment").

for a motion to alter or amend," which we discuss further below, Robinson asserts that his motion for reconsideration tolled the time for him to file an appeal.

The State, in turn, concedes that because Robinson allegedly did not receive the May 5 order until June 16, the district court deemed Robinson's motion for reconsideration to have been "within the 10 day timeframe for a motion to alter or amend." However, the State claims that the court's doing so was contrary to Neb. Rev. Stat. § 25-1329 (Reissue 2016), which prescribes, in part, that "[a] motion to alter or amend a judgment shall be filed no later than ten days after the entry of the judgment." As such, the State claims the operative notice of appeal was untimely filed because it was not filed within 30 days of the May 5 order. We agree with the State.

The order Robinson purports to appeal was issued on May 5. Yet the operative notice of appeal was not filed until mid-July; that was more than 30 days later. As such, the operative notice of appeal cannot be seen to have been timely filed unless Robinson's motion for reconsideration tolled the time for him to file a notice of appeal. It did not, because it was not filed within 10 days of the May 5 order.

For the sake of completeness, we also note that Robinson's motion for reconsideration was not filed within 10 days of the court's May 29 or June 10 orders, either.

District Court's Purported Extension of Time to File Appeal Is Invalid

It is true that the district court said that because Robinson allegedly did not receive a copy of the May 5, 2025, order until June 16, his motion for reconsideration was "within the 10 day timeframe for a motion to alter or amend [the judgment]." However, the district court had no authority to extend the time for Robinson to file a notice of appeal in such a manner, even if Robinson did not timely receive the May 5 order.

The clerk of the court had a duty to notify Robinson of the May 5 order. That order arose from a "Motion for Post-Conviction Relief and Motion for a New Trial." Postconviction proceedings are civil in nature,[15] and as such, the clerk of the court was required by statute to send the judgment or final order to the parties or their attorneys within 3 days of the entry of the judgment or final order.[16] This obligation has also been construed to extend to notifying the parties or their attorneys of a ruling on a motion for a new trial or any other order finally disposing of an action.[17]

[5] Where a duty is placed upon a public officer to perform acts necessary to perfect an appeal, as was the case here, the public officer's failure to perform cannot be charged to the litigant or operate to defeat the appeal.[18]

[6] However, we have also explained that the appropriate filing procedure when an appeal is lost due to official negligence is for the party seeking relief to file a motion in the lower court, seeking the ability to establish the basis for obtaining relief.[19] Specifically, we have said that when the clerk of the court fails to give the parties notice of the entry of the judgment "'the proper method of addressing the

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[15] See, Neb. Rev. Stat. § 29-3002 (Reissue 2016); *State v. Jones*, 320 Neb. 766, 30 N.W.3d 293 (2026). But see *State v. Robertson*, 294 Neb. 29, 881 N.W.2d 864 (2016) (explaining that postconviction proceeding is not ordinary civil action and, in particular, is not subject to civil pleading rules).

[16] See Neb. Rev. Stat. § 25-1301.01 (Cum. Supp. 2024).

[17] See, e.g., *Simmons v. Lincoln*, 176 Neb. 71, 125 N.W.2d 63 (1963); *TierOne Bank v. Cup-O-Coa, Inc.*, 15 Neb. App. 648, 734 N.W.2d 763 (2007).

[18] See *Lancaster County v. Slezak*, 317 Neb. 157, 9 N.W.3d 414 (2024).

[19] *State v. Jones*, 307 Neb. 809, 950 N.W.2d 625 (2020). See, also, *State v. Parnell*, 301 Neb. 774, 919 N.W.2d 900 (2018); *State v. Smith*, 269 Neb. 773, 696 N.W.2d 871 (2005); *TierOne Bank, supra* note 17; *Erpelding v. Southall*, No. A-19-825, 2020 WL 2544891 (Neb. App. May 14, 2020) (unpublished memorandum opinion).

situation would have been by a motion to vacate' the original order."[20]

Trial courts have the power to vacate or modify their own judgments and orders at any time during the term at which they were pronounced,[21] as well as certain power to do so after the conclusion of the court term.[22] Notably, Neb. Rev. Stat. §§ 25-2001(4) and 25-2008 (Reissue 2016) permit proceedings to vacate or modify a judgment or order for, among other things, "mistake, neglect, or omission of the clerk, or irregularity in obtaining a judgment or order,"[23] to be commenced for up to 2 years after the entry of the judgment or order, or longer in cases of persons who are infants or of unsound mind.

We have previously stated that this power "may not be used to circumvent the Legislature's power to fix the time limit to take an appeal" by vacating an order or judgment and reinstating it at a later date solely for the purpose of extending the

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[20] *In re Interest of Luz P. et al., supra* note 9, 295 Neb. at 828, 891 N.W.2d at 662. See, also, *Parnell, supra* note 19; *Olsen v. Olsen*, 265 Neb. 299, 657 N.W.2d 1 (2003); *Nye v. Fire Group Partnership*, 263 Neb. 735, 642 N.W.2d 149 (2002); *Tietsort v. Ranne*, 200 Neb. 651, 264 N.W.2d 860 (1978); *Simmons, supra* note 17; *TierOne Bank*, *supra* note 17; *NRS Properties v. Agribusiness & Food Assocs.*, No. A–14–662, 2015 WL 4272091 (Neb. App. July 14, 2015) (selected for posting to court website); *State v. Haynes*, No. A-12-1149, 2014 WL 309411 (Neb. App. Jan. 28, 2014) (selected for posting to court website); *Larsen v. Sloan*, No. A-04-964, 2010 WL 412035 (Neb. App. Feb. 2, 2010) (selected for posting to court website); *Erpelding, supra* note 19.

[21] See *State v. Brown*, 312 Neb. 654, 980 N.W.2d 834 (2022). See, also, *Jaksha v. Jaksha*, 319 Neb. 308, 21 N.W.3d 690 (2025) (district court having inherent and statutory authority to vacate or modify judgment or final order, as well as equitable power).

[22] See *id*.

[23] See § 25-2001(4)(a). Compare *Nye, supra* note 20; *Tietsort, supra* note 20; *Simmons, supra* note 17; *Crete Mills v. Stevens*, 120 Neb. 794, 235 N.W. 453 (1931); and *NRS Properties, supra* note 20, with *Roemer v. Maly*, 248 Neb. 741, 539 N.W.2d 40 (1995); *Pofahl v. Pofahl*, 196 Neb. 347, 243 N.W.2d 55 (1976); and *Haynes, supra* note 20.

time to appeal.[24] However, we have also stated that the "[o]ne exception to this rule against using a court's power to vacate as a tool to extend the time for appeal is where a clerk fails to provide notice of a judgment to a party, thereby impairing the party's ability to appeal."[25] We also made clear, though, that a motion to vacate an order or judgment on the basis that a clerk failed to provide a party with notice, thereby impairing the party's ability to appeal, must be supported by some evidence.[26]

[7] In this case, the district court was not requested to vacate its May 5 order and did not purport to do so. Instead, the district court stated that because Robinson allegedly did not receive the May 5 order until June 16, his motion for reconsideration was "within the 10 day timeframe for a motion to alter or amend [a judgment]." In so doing, the district court effectively purported to extend the time for Robinson to appeal. That is beyond the district court's power.[27] When the Legislature fixed the time for taking an appeal, as was the case here, the courts have no power to extend that time directly or indirectly.[28]

The district court also purported to extend the time for Robinson to file an appeal without adequate evidence, particularly as to the reason why Robinson was not notified of the May 5 order. The district court could perhaps be seen to have

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[24] *In re Interest of Luz P. et al., supra* note 9, 295 Neb. at 827, 891 N.W.2d at 661.

[25] *Id*. at 828, 891 N.W.2d at 662.

[26] See *id*. See, also, *Jones, supra* note 19; *Nye, supra* note 20; *Starr v. King*, 234 Neb. 339, 451 N.W.2d 82 (1990); *Rose v. Burr*, 43 Neb. 358, 61 N.W. 593 (1895); *R. V. R. R. Co. v. McPherson*, 12 Neb. 480, 11 N.W. 739 (1882); *Schultz v. State*, 32 Neb. App. 59, 992 N.W.2d 779 (2023).

[27] See, e.g., *In re Interest of Luz P. et al., supra* note 9 (trial court exceeded authority in issuing order nunc pro tunc that purported to vacate its prior order and then reinstate that order in its entirety for express purpose of extending appellant's time to file appeal); *Larsen, supra* note 20 (trial court exceeded its authority in not ruling on party's motion to vacate but instead issuing order that purported to give party 30 days to file appeal).

[28] See *State v. Uhing*, 301 Neb. 768, 919 N.W.2d 909 (2018).

taken judicial notice of its own records, which showed that the clerk sent the May 5 order to one of Robinson's former attorneys and a deputy county attorney. But we see nothing in those records to show whether this circumstance was "solely due" to the clerk's negligence.[29]

Robinson claimed in his motion for reconsideration that he did not receive the May 5 order until June 16 because of "a clerical error." Such a claim in a motion may be sufficient to obtain a hearing on the claim.[30] But it is not enough to support vacating a prior order. Arguments are not evidence,[31] and the record before us on appeal reflects no "evidence . . . admitted, by affidavit, testimony, or otherwise," to show why the clerk failed to notify Robinson of the May 5 order or when Robinson received that order.[32] At one point, the court suggested that Robinson may have failed to notify the clerk to "change the address on th[e] case" to his own, rather than that of his prior defense counsel. This is significant because insofar as Robinson's negligence, or that of his agent, concurred with that of the court official, the appeal would be precluded.[33]

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[29] See *Smith, supra* note 19, 269 Neb. at 780, 696 N.W.2d at 879. See, also, *Roemer, supra* note 23; *Aetna Cas. & Surety Co. v. Dickinson*, 216 Neb. 660, 345 N.W.2d 8 (1984); *Holman v. Stull*, 130 Neb. 876, 267 N.W. 149 (1936); *Larson v. Wegner*, 120 Neb. 449, 233 N.W. 253 (1930); *Continental Building & Loan Association v. Mills*, 44 Neb. 136, 62 N.W. 478 (1895); *Erpelding, supra* note 19; *Harris v. M. M. & L. Internat. Corp.*, No. A-18-524, 2019 WL 1787171 (Neb. App. Apr. 17, 2019) (unpublished memorandum opinion).

[30] See, *Parnell, supra* note 19; *Simmons, supra* note 17.

[31] See, e.g., *In re Guardianship & Conservatorship of Alice H.*, 303 Neb. 235, 927 N.W.2d 787 (2019).

[32] See *In re Interest of Luz P. et al., supra* note 9, 295 Neb. at 823, 891 N.W.2d at 659.

[33] See, e.g., *Brown, supra* note 21. See, also, *VRT, Inc. v. Dutton-Lainson Co.*, 247 Neb. 845, 530 N.W.2d 619 (1995) (relationship between attorney and client is one of agency, and as such, client is bound by acts and omissions of his or her attorney when such acts or omissions are within attorney's scope of express, implied, apparent, or ostensible authority).

In arguing otherwise, Robinson claims that failing to treat his motion for reconsideration as a timely motion to alter or amend would essentially "erase" the district court's June 26 order, something that he claims cannot be done because that order "exists" and "is part of the appellate record."[34] That argument misses the mark, because our conclusion that the district court exceeded its authority in stating that Robinson's motion was "within the 10 day timeframe for a motion to alter or amend [a judgment]" in no way negates the existence of the June 26 order. It merely means that the order does not have the effect that the district court purported it to have.

In opposing the State's motion for summary dismissal of his appeal, Robinson relied on *State v. Caddy*[35] for the proposition that "appeal-tolling motions run from the time of notice, not the mere date of filing." Robinson's reliance on this proposition is misplaced. *Caddy* concerned a postconviction motion that alleged, among other things, that appellate counsel was ineffective for failing to perfect the appeal by filing the requisite poverty affidavit. *Caddy* did not concern a motion to vacate based on alleged official negligence.

On a similar note, and purely as a matter of semantics insofar as it is the contents of a motion, and not its caption, that are dispositive,[36] we reject the State's suggestion that the proper method to address lack of notice here was a motion to reinstate Robinson's appeal. Historically, a motion to reinstate an appeal has been used to address issues with the docketing of an appeal—issues like the failure to file the paperwork for an appeal raised in Robinson's appeal of the district court's

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[34] Reply brief for appellant at 3.

[35] *State v. Caddy*, 262 Neb. 38, 628 N.W.2d 251 (2001).

[36] See, e.g., *Johnson v. Knox Cty. Partnership*, 273 Neb. 123, 728 N.W.2d 101 (2007).

February 18, 2010, order.[37] This case, in contrast, involved a failure to notify a party of the judgment or other order finally disposing of the action, something that has historically been raised in a motion to vacate.[38]

CONCLUSION

Robinson's motion for reconsideration was not filed within 10 days of any relevant order of the district court, and the district court's order deeming that motion to have been "within the 10 day timeframe for a motion to alter or amend [a judgment]" exceeded the court's authority. Accordingly, Robinson's appeal was untimely filed, and we dismiss it for lack of jurisdiction.

APPEAL DISMISSED.

FREUDENBERG, J., not participating.

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[37] See, e.g., *Jones, supra* note 19 (issue with poverty affidavit); *Meints, supra* note 10 (issue with payment for transcript); *Smith, supra* note 19 (issue with poverty affidavit); *Rose, supra* note 26 (issue with bond on appeal); *McPherson, supra* note 26 (issue with transcript); *Jefferson County v. Saxon*, 10 Neb. 14, 4 N.W. 309 (1880) (issue with bill of exceptions); *Dobson v. Dobson*, 7 Neb. 296 (1878) (issue with filing application in writing for appeal); *State v. Burton*, No. A-14-584, 2015 WL 3955485 (Neb. App. June 30, 2015) (selected for posting to court website) (issue with filing fee); *Countryside Co-op v. The Harry A. Koch Co.*, No. A–09–896, 2010 WL 480990 (Neb. App. Feb. 9, 2010) (selected for posting to court website) (issue with transcript).

[38] See cases cited *supra* note 20.