ADVANCE SHEET HEADNOTE
June 23, 2026

2026 CO 48

No. 25SC53, *People v. Jebe*—Appeal Timeliness—Motions to Reconsider—Tolling Effect.

The supreme court granted certiorari to review whether the court of appeals erred in dismissing the People's appeal as untimely. The People filed their appeal within forty-nine days of the district court's order denying their motion to reconsider its judgment dismissing Quinn M. Jebe's charges with prejudice.

The supreme court holds that when the People timely file a motion to reconsider in the district court, it tolls the appeal timeline. Hence, the supreme court concludes here that the People's appeal was timely because they (1) filed a motion to reconsider within the forty-nine-day appeal period set forth in C.A.R. 4(b)(6)(A), which tolled the appeal timeline, and then, factoring in the time period tolled, (2) filed a notice of appeal within forty-nine days of the district court's order denying the motion to reconsider. Accordingly, the supreme court reverses the judgment of the court of appeals and remands the case for the court of appeals to reinstate the People's appeal as timely filed.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 48

Supreme Court Case No. 25SC53
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 23CA1676

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Quinn M. Jebe.

Judgment Reversed
en banc
June 23, 2026

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JUSTICE BOATRIGHT delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ, JUSTICE SAMOUR**, **JUSTICE BERKENKOTTER**, and **JUSTICE BLANCO** joined.
JUSTICE GABRIEL, joined by **JUSTICE HOOD**, concurred in the judgment.

JUSTICE BOATRIGHT delivered the Opinion of the Court.

¶1 While Quinn M. Jebe awaited trial, the People moved to dismiss his case without prejudice because the victim was unavailable to testify. After the People explained that this would not foreseeably change, the district court dismissed the case *with* prejudice. The People immediately filed a motion to reconsider, which the district court denied thirty-nine days later. The People then filed a notice of appeal within a month from the district court's denial of the motion to reconsider but more than forty-nine days from the initial dismissal. A division of the court of appeals concluded that the People's appeal was untimely because it had been filed more than forty-nine days after the dismissal, and the motion to reconsider did not extend that appeal period. *People v. Jebe*, No. 23CA1676, ¶ 1 (Dec. 5, 2024); *see* C.A.R. 4(b)(6)(A). We granted the People's petition for certiorari.[1]

¶2 We hold that when the People timely file a motion to reconsider in the district court, it tolls the appeal timeline.[2] Hence, we conclude here that the

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[1] We granted certiorari to review the following issue:

> Whether the court of appeals erred in dismissing the petitioner's appeal as untimely, when that appeal was filed within [forty-nine] days of the order denying a motion for reconsideration.

[2] The division and the parties agree that C.A.R. 4(b)(2) already provides for tolling of a *defendant's* time to appeal a judgment of conviction upon the defendant's timely filing of certain post-trial motions in the trial court. *See Jebe*, ¶ 11. Thus, our holding today focuses on the tolling effect of the *People's* timely filed motion to reconsider.

People's appeal was timely because they (1) filed a motion to reconsider within the forty-nine-day appeal period set forth in C.A.R. 4(b)(6)(A), which tolled the appeal timeline, and then, factoring in the time period tolled, (2) filed a notice of appeal within forty-nine days of the district court's order denying the motion to reconsider. Accordingly, we reverse the judgment of the court of appeals and remand the case for the court of appeals to reinstate the People's appeal as timely filed.

I. Facts and Procedural History

¶3 The People charged Jebe with three counts of sexual assault on a child and distribution of a controlled substance to a minor. His speedy trial deadline was August 28, 2023, and trial was set for August 1. At a pretrial conference on July 17, the People indicated to the district court that the victim could not testify due to a mental health condition, which would not change within the speedy trial deadline. The district court continued the pretrial conference to July 24. On that date, the parties agreed to appear on July 28 for a plea hearing, and the court maintained the August 1 trial date.

¶4 On July 27, the People filed a motion to dismiss without prejudice because the victim was unavailable to testify, and they reiterated this request at the plea hearing the next day. Jebe objected and asked the court to reset trial for August 28, the last date of his speedy trial deadline. But when the court asked the People if

they would be ready for trial then, they responded that they would "be in the same position." Based on these circumstances, the court dismissed the case but instead, *with* prejudice, on July 28.

¶5 That same day, the People filed a motion to reconsider the court's decision to dismiss the case with prejudice. The district court denied that motion on September 5, thirty-nine days later. The People then filed a notice of appeal on September 28, twenty-three days after the court denied their motion to reconsider and sixty-two days after the order dismissing the case with prejudice.

¶6 The court of appeals issued an order to show cause why the appeal should not be dismissed as untimely under C.A.R. 4(b)(6)(A). The order to show cause stated that because the district court appeared to have dismissed all the charges on July 28, the appeal was due by September 15.[3]

¶7 The People responded, citing case law to suggest that the time period for an appeal did not begin to run until the district court ruled on their motion to reconsider. *See People v. Tuffo*, 209 P.3d 1226, 1229 (Colo. App. 2009); *People v. Melton*, 910 P.2d 672, 675 n.4 (Colo. 1996), *superseded by rule on other grounds as stated in*, *People v. Zhuk*, 239 P.3d 437, 439 (Colo. 2010); *People v. Blue*, 253 P.3d 1273, 1275

[3] Here, we note that, in considering the tolling effect of the People's motion to reconsider, the forty-nine-day appeal period would instead begin to run September 5, when the district court ruled on the motion, making the People's appeal due October 24.

(Colo. App. 2011). In the alternative, the People argued that their reliance on that case law constituted excusable neglect, warranting a thirty-five-day extension and rendering the appeal timely. *See* C.A.R. 4(b)(3).

¶8 A division of the court of appeals disagreed and dismissed the People's appeal as untimely. *Jebe*, ¶ 1. The division concluded that C.A.R. 4 does not toll the time to appeal for postjudgment motions filed by the *prosecution*. *Id.* at ¶ 9. The division also distinguished the People's cited case law, noting that those cases involved either interlocutory appeals or "unusual procedural circumstances." *Id.* at ¶ 13. Furthermore, the division concluded that the People made no showing of excusable neglect because their misinterpretation of the cases was avoidable "legal error" and because they still had ten days to file their notice of appeal when the district court denied the motion to reconsider on September 5. *Id.* at ¶ 19.

¶9 We granted the People's petition for certiorari.

II. Analysis

¶10 We begin by establishing our standard of review. We then look to our Colorado Appellate Rules governing prosecutorial appeals in criminal cases, specifically, C.A.R. 4(b)(6)(A). Next, we review case law regarding tolling when a party files a postjudgment motion with the trial court, seeking substantive review of an immediately appealable order. Finally, we apply this law to the facts presented here.

¶11 We hold that when the People timely file a motion to reconsider in the district court, it tolls the appeal timeline. Hence, we conclude here that the People's appeal was timely because they (1) filed a motion to reconsider within the forty-nine-day appeal period set forth in C.A.R. 4(b)(6)(A), which tolled the appeal timeline, and then, factoring in the time period tolled, (2) filed a notice of appeal within forty-nine days of the district court's order denying the motion to reconsider. Accordingly, we reverse the judgment of the court of appeals and remand the case for the court of appeals to reinstate the People's appeal as timely filed.

A. Standard of Review

¶12 A party's "[f]ailure to file a timely appeal is a jurisdictional defect." *People v. Donahue*, 750 P.2d 921, 922 (Colo. 1988). Jurisdiction is a question of law that we review de novo. *E.g.*, *People v. Maser*, 2012 CO 41, ¶ 10, 278 P.3d 361, 364.

B. Prosecutorial Appeals in Criminal Cases

¶13 A trial court's order dismissing a defendant's charges is an immediately appealable final order. § 16-12-102(1), C.R.S. (2025). The People's appeal of a district court's final order in a criminal case must comport with the applicable procedures set forth in the Colorado Appellate Rules. *Id.*; Crim. P. 38. Specifically, C.A.R. 4(b)(6)(A) requires that the People file their notice of appeal "within [forty-nine] days after the entry of judgment or order appealed from."

¶14 The court of appeals has jurisdiction to hear an appeal only when it is timely filed.[4] C.A.R. 3(a); *People v. Baker*, 104 P.3d 893, 895 (Colo. 2005). And C.A.R. 4(b)(6)(A) is silent regarding the effect of motions to reconsider on the timing for prosecutorial appeals in criminal cases. Whereas C.A.R. 4(b)(2) provides for tolling in criminal cases following a *defendant's* post-trial motion after conviction, C.A.R. 4(b)(6)(A) does not address whether postjudgment motions to reconsider affect the deadline for *prosecutorial* appeals.

C. Appeal Timeliness in the Context of Subsequent Motions to the Trial Court After a Directly Appealable Order

¶15 We have previously held that a timely motion to reconsider a trial court's suppression order—filed within the applicable interlocutory appeal timeline—tolls the time for that interlocutory appeal. *People v. Powers*, 47 P.3d 686, 687 (Colo. 2002), *superseded by rule on other grounds as stated in*, *Zhuk*, 239 P.3d at 439.[5] In *Powers*, we observed that "C.A.R. 4.1 does not address motions for

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[4] However, "[u]pon a showing of excusable neglect," the appellate court may extend the time for filing a notice of appeal up to thirty-five days. C.A.R. 4(b)(3). "Excusable neglect involves a situation where the failure to act results from circumstances which would cause a reasonably careful person to neglect a duty." *Farmers Ins. Grp. v. Dist. Ct.*, 507 P.2d 865, 867 (Colo. 1973). Because our holding today establishes that the People's appeal was timely, we do not address the issue of excusable neglect.

[5] However, because the People in *Powers* filed their motion to reconsider after the interlocutory appeal timeline, we ultimately held that their appeal was untimely. 47 P.3d at 689–90.

reconsideration," and we had not already addressed this issue in the interlocutory appeal context. *Id.* at 688. We then relied on the Supreme Court's conclusions in *United States v. Healy*, 376 U.S. 75, 78–79 (1964); *United States v. Dieter*, 429 U.S. 6, 8–9 (1976); and *United States v. Ibarra*, 502 U.S. 1, 4 n.2 (1991), in addition to the Tenth Circuit's reasoning in *United States v. Martinez*, 681 F.2d 1248, 1253 (10th Cir. 1982). *Powers*, 47 P.3d at 689.

¶16 We observed that in *Healy*, *Dieter*, and *Ibarra*, the "Supreme Court has held that a timely motion to reconsider tolls the running of the [appeal] period," meaning that the appeal period "begin[s] again once the trial court rules on the motion for reconsideration." *Id.* (first citing *Ibarra*, 502 U.S. at 4 n.2; then citing *Dieter*, 429 U.S. at 8; and then citing *Healy*, 376 U.S. at 78–79). We further noted that in *Martinez*, the Tenth Circuit explained that "[a]n untimely request for rehearing will not toll the running of the appeal period." *Id.* (citing *Martinez*, 681 F.2d at 1253). And we found "the reasoning of these cases persuasive." *Id.* Thus, we incorporated this rule into our case law, specifically in the context of interlocutory appeals. *Id.*

¶17 Divisions of the court of appeals have followed suit. In *Tuffo*, a division cited *Powers* for its rule that "a proper and timely motion for reconsideration suspends the order's finality such that the full time for appealing begins to run only when reconsideration is denied." *Tuffo*, 209 P.3d at 1229 (citing *Powers*,

47 P.3d at 689). There, at sentencing, defense counsel was unprepared to address the sexually violent predator designation, and the court allowed counsel to file a motion for reconsideration, which would be reviewed at a later hearing. *Id.* After several subsequent hearings and about seven months after sentencing, the court permitted arguments regarding the designation and ultimately denied the defendant's oral motion to reconsider. *Id.* When the People later disputed the defendant's subsequent appeal as untimely, the division instead held that the challenge was timely because the trial court had allowed the oral motion for reconsideration made at sentencing to be heard at a later date and the prosecution did not object at any point. *Id.* (relying on *Powers*, 47 P.3d at 689).

¶18 Another division of the court of appeals relied on *Powers* and *Tuffo* in *Blue*, where the trial court reduced a charge, creating a partial dismissal subject to interlocutory appeal. *Blue*, 253 P.3d at 1276. The People moved for reconsideration within the interlocutory appeal timeline, and after the trial court denied their motion, they filed their notice of appeal two days later. *Id.* The division concluded that the People's interlocutory appeal was timely. *Id.* It first stated that under *Powers*, "if Colorado criminal rules do not expressly provide for reconsideration, then a reconsideration motion is timely as long as it is filed within the specified time for taking an appeal." *Id.* (citing *Powers*, 47 P.3d at 689). The division then also pointed to *Tuffo*, observing that a timely motion to reconsider

tolls the appeal time "such that the full time for appealing begins to run only when reconsideration is denied." *Id.* (quoting *Tuffo*, 209 P.3d at 1229) (applying the rule established in *Powers*, 47 P.3d at 689).

D. Whether *Powers* Is Applicable

¶19 Jebe argues that the federal common law rule we adopted in *Powers* is inapposite here because *Powers* dealt with an interlocutory appeal, and unlike C.A.R. 4.1, C.A.R. 4 is not *wholly* silent on the effect of postjudgment motions. He notes that in *Dieter*, the Court did not distinguish between civil and criminal cases and that in *Healy*, the Court found that the procedural rules did not sufficiently resolve the issue. He points out that C.A.R. 4 distinguishes between civil and criminal cases and between defendant and prosecutorial appellants. *Compare* C.A.R. 4(a) (governing appeals in civil cases), *with* C.A.R. 4(b) (governing appeals in criminal cases); *compare* C.A.R. 4(b)(2) (governing a defendant's post-trial motion), *with* C.A.R. 4(b)(6)(A) (governing prosecutorial appeals).

¶20 In particular, Jebe cites C.A.R. 4(a)(3), which provides that any party filing a C.R.C.P. 59 motion tolls the appeal timeline in *civil* cases, and C.A.R. 4(b)(2), which provides that certain post-trial motions filed by a *defendant* toll the appeal timeline in *criminal* cases. He argues that these distinctions are intentional and restrict what the provisions do not expressly allow, meaning courts should not infer tolling mechanisms in C.A.R. 4(b)(6)(A). Moreover, he asserts that because

C.A.R. 4 addresses the tolling effect of certain post-trial motions, the rule differs from C.A.R. 4.1's silence, rendering *Powers* distinguishable.

¶21 As an initial matter, in *Healy* and *Dieter*, the applicable statute and appellate rule were both silent on the effect of post-trial motions. *Healy*, 376 U.S. at 77 (first citing 18 U.S.C. § 3731; and then citing Sup. Ct. R. 11(2) (1964)); *Dieter*, 429 U.S. at 7 n.2 (first citing 18 U.S.C. § 3731; and then citing Fed. R. App. P. 4(b)). Similarly, in *Powers*, we observed that no rule prescribed the applicable procedure and that we had not already addressed the issue. 47 P.3d at 688. Accordingly, we incorporated precedent from the Supreme Court. *Id.* at 688–89. Jebe contends that we are not in the same position here because C.A.R. 4 *does* address motions to reconsider and, as he argues, restricts their tolling effect to those provisions, which do *not* include postjudgment motions filed by the People.

¶22 Jebe points out that, in civil cases, C.A.R. 4(a)(3) incorporates C.R.C.P. 59, which governs motions for post-trial relief in civil cases. Specifically, C.A.R. 4(a)(3) adopts C.R.C.P. 59(a), which limits parties to filing for post-trial relief within fourteen days of the entry of a judgment, and C.R.C.P. 59(j), which then requires that a trial court rule on the motion within sixty-three days. C.A.R. 4(a)(3) provides:

> The running of the time for filing a notice of appeal is terminated as to all parties when any party timely files a motion in the lower court pursuant to C.R.C.P. 59, and the time for an appeal . . . runs for all parties from the timely entry of any order disposing of the last such

> timely filed motion under C.R.C.P. 59 or the expiration of the time for ruling on such a motion pursuant to C.R.C.P. 59(j).

¶23 Next, C.A.R. 4(b)(2) provides that, in criminal cases, "[i]f the defendant files a timely motion in arrest of judgment, for judgment of acquittal, or for a new trial on any ground other than newly discovered evidence, an appeal from a judgment of conviction must be taken within [forty-nine] days after entry of an order denying the motion."

¶24 Turning to the subsection for prosecutorial appeals, C.A.R. 4(b)(6)(A) sets forth the forty-nine-day appeal timeline but does not provide any similar language regarding post-trial motions. In full, C.A.R. 4(b)(6)(A) states:

> Unless otherwise provided by statute or these rules, when an appeal by the state or the people is authorized by statute, the notice of appeal must be filed in the court of appeals within [forty-nine] days after the entry of judgment or order appealed from. The court of appeals will issue a written decision answering the issues in the case and will not dismiss the appeal on the ground that a decision will have no precedential value. The final decision of the court of appeals is subject to petition for certiorari to the supreme court.

¶25 Although it is true that C.A.R. 4 expressly provides for tolling in civil cases and upon certain post-trial motions raised by a defendant in criminal cases, the rule is silent on prosecutorial postjudgment motions. *See* C.A.R. 4(b)(6)(A). Despite Jebe's contention that this subsection's silence precludes tolling the time to appeal when the People seek reconsideration, there is simply no guidance relating to this scenario. Thus, C.A.R. 4 provides no *applicable* procedure to follow

in these circumstances. *See* § 16-12-102(1) ("The procedure to be followed in filing and prosecuting appeals under this section shall be as provided by *applicable* rule of the supreme court of Colorado." (emphasis added)). And this is similar to the lack of procedure that we encountered in *Powers*. *See Powers*, 47 P.3d at 688.

¶26 Jebe nonetheless argues that *Powers* is distinguishable because final dismissals are "final order[s] that shall be immediately appealable" under section 16-12-102(1), yet *Powers* involved an interlocutory appeal under section 16-12-102(2), which does not contain similar language. He asserts that this language limits appeals to that final order and does not authorize appealing a trial court's order on a motion to reconsider.

¶27 Jebe relies on two cases from divisions of the court of appeals that interpreted similar finality language in Crim. P. 35(c)(3)(IX) and held that a motion to reconsider a court's postconviction order cannot suspend the order's finality or toll the time for an appeal. *See People v. Adams*, 905 P.2d 17, 19 (Colo. App. 1995); *People v. Thomas*, 195 P.3d 1162, 1164 (Colo. App. 2008). However, the postconviction context is distinguishable because Crim. P. 35(c)(3)(VI) bars postconviction relief based on previously denied claims. Jebe contends that the same logic applies here. But C.A.R. 4 contains no comparable language.

¶28 Further, in addition to final dismissals, section 16-12-102(1) also applies to *partial* dismissals. § 16-12-102(1) ("Any order of a court that either dismisses one

or more counts . . . shall constitute a final order that shall be immediately appealable . . . ."). And partial dismissals are subject to interlocutory appeal, just like the appeal of a suppression order at issue in *Powers*. *See* C.A.R. 4(b)(6)(B). Moreover, both interlocutory appeals and appeals of final dismissals seek substantive review of a trial court's ruling.

¶29 Finally, we note that in *Powers*, we applied Supreme Court case law involving *dismissals* to interlocutory appeals. *See Healy*, 376 U.S. at 76–77 (pertaining to a dismissed indictment); *Dieter*, 429 U.S. at 7 (same). Thus, the distinctions between the two are immaterial for our present purpose. Accordingly, the rule in *Powers* applies here.

E. Application

¶30 The rule of *Powers*—that a timely motion to reconsider a suppression order tolls the period for filing an interlocutory appeal, provided the motion is filed within the period to file the appeal itself—also applies to prosecutorial appeals under C.A.R. 4(b)(6)(A). In effect, the People must file their motion to reconsider within forty-nine days after entry of a final dismissal.

¶31 Here, the People filed their motion to reconsider on July 28, the same day the district court dismissed the case with prejudice. They filed the motion within the forty-nine-day appeal period, and thus, it was timely. C.A.R. 4(b)(6)(A).

Because the motion to reconsider was timely, the district court retained jurisdiction to review its dismissal with prejudice.

¶32 Our holding recognizes that if a timely motion to reconsider only protected jurisdiction and did not toll the appeal period, then upon a notice of appeal while a motion to reconsider is still pending, the district court and court of appeals would both be presented with the same legal question. So, we note that if the People were to file a motion to reconsider with the district court and also file a notice of appeal before the district court ruled on the motion, then the district court would be divested of jurisdiction. Even though the district court would lose jurisdiction in this scenario, it would not promote judicial economy. On the other hand, if the trial court recognizes that it erred and could correct that error before the People commence an appeal, then this would improve efficiency.

¶33 Thus, we conclude that the People's July 28 motion to reconsider was timely under C.A.R. 4(b)(6)(A) because it was filed the same day the district court dismissed the case, which was within the forty-nine-day appeal period. Because it was timely, it necessarily tolled the appeal period. And the appeal timeline restarted when the district court denied the motion in a written order on September 5, giving the People forty-nine-days from that date to file an appeal. The People's September 28 notice of appeal was thus timely because it fell within the forty-nine-day appeal period relating back to the September 5 order.

III. Conclusion

¶34 We hold that when the People timely file a motion to reconsider in the district court, it tolls the appeal timeline. Hence, we conclude here that the People's appeal was timely because they (1) filed a motion to reconsider within the forty-nine-day appeal period set forth in C.A.R. 4(b)(6)(A), which tolled the appeal timeline, and then, factoring in the time period tolled, (2) filed a notice of appeal within forty-nine days of the district court's order denying the motion to reconsider. Accordingly, we reverse the judgment of the court of appeals and remand the case for the court of appeals to reinstate the People's appeal as timely filed.

JUSTICE GABRIEL, joined by **JUSTICE HOOD**, concurred in the judgment.

JUSTICE GABRIEL, joined by JUSTICE HOOD, concurring in the judgment.

¶35 The majority concludes that when the People timely file a motion to reconsider in the district court, it tolls the appeal timeline and, thus, the People's appeal was timely in this case. Maj. op. ¶¶ 2, 34. Under settled principles of rule construction, however, I cannot agree that a motion for reconsideration by the People tolls their timeline for appeal. As a result, I would conclude that the People's appeal was untimely in this case. But I would further conclude that given the state of case law from our court and divisions of our court of appeals, the People's untimely filing was the result of excusable neglect. For that reason, like the majority, I would conclude that the People's appeal was properly before the court of appeals division below and that the division reversibly erred in dismissing that appeal.

¶36 I therefore respectfully concur in the judgment only.

I. Analysis

¶37 The majority correctly sets forth the applicable facts, and I need not repeat those facts here. Accordingly, I begin by noting our standard of review and pertinent principles of rule construction. I then apply those principles and conclude that, under the applicable appellate rules, a timely motion for reconsideration does not toll the People's time to file an appeal in a criminal case and, therefore, the People's appeal was untimely here. I end by addressing

whether the People's untimely filing was the result of excusable neglect and conclude that it was.

A. Standard of Review and Principles of Rule Construction

¶38 We review interpretations of our procedural rules de novo. *People v. Corson*, 2016 CO 33, ¶ 44, 379 P.3d 288, 297. In construing our procedural rules, we employ the same interpretive rules applicable to statutory construction. *Buell v. People*, 2019 CO 27, ¶ 19, 439 P.3d 857, 861. Accordingly, we seek to discern and effectuate the rule framers' intent. *See People in Int. of B.C.B.*, 2025 CO 28, ¶ 24, 569 P.3d 74, 79. In doing this, we apply words and phrases in accordance with their plain and ordinary meanings, and we consider the entire scheme of the rules in order to give consistent, harmonious, and sensible effect to all of its parts. *See id.* Moreover, we must avoid interpretations that would render any words or phrases of a rule superfluous or that would lead to illogical or absurd results. *See id.* And because we presume that rule framers, like our legislature, act intentionally when selecting the words used in a rule, we may not add words to a rule or subtract words from it. *See id.* at ¶ 25, 569 P.3d at 79; *Nesjan v. J & A Distrib., Inc.*, 2025 COA 81, ¶ 9, 580 P.3d 596, 598–99.

B. Timeliness of the People's Appeal

¶39 Applying the foregoing principles, for several reasons, I do not believe that the applicable appellate rules tolled the time for appeal upon the People's timely filing of their motion for reconsideration.

¶40 First, C.A.R. 4(b), which addresses appeals in criminal cases, does not provide for tolling in the circumstances now before us. That rule states, in pertinent part:

> (1) Time for Filing a Notice of Appeal. Except as provided in C.A.R. 4(c) and (d), the defendant's notice of appeal must be filed in the appellate court and an advisory copy served on the lower court within 49 days after entry of the judgment or order appealed from.
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> (2) Effect of a Post-Trial Motion on the Deadline for Filing a Notice of Appeal. If *the defendant* files a timely motion in arrest of judgment, for judgment of acquittal, or for a new trial on any ground other than newly discovered evidence, an appeal from a judgment of conviction must be taken within 49 days after entry of an order denying the motion. A motion for a new trial based on newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made within 14 days after entry of the judgment.
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> (3) Extension of Time to File a Notice of Appeal. Upon a showing of excusable neglect the appellate court may, before or after the time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed 35 days from the expiration of the time otherwise prescribed by this section (b).
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> . . . .
>
> (6) *Prosecutorial Appeals*.
>
> (A) In General. Unless otherwise provided by statute or these rules, when an appeal by the state or the people is authorized by statute, the

> notice of appeal must be filed in the court of appeals within 49 days after the entry of judgment or order appealed from. The court of appeals will issue a written decision answering the issues in the case and will not dismiss the appeal on the ground that a decision will have no precedential value. The final decision of the court of appeals is subject to petition for certiorari to the supreme court.

(Emphases added.)

¶41 Nothing in C.A.R. 4(b)(6), which governs criminal appeals by the People, provides for either a motion for reconsideration or tolling of the time to appeal upon the filing of such a motion. Accordingly, the text of the rule does not support the majority's conclusion that a timely motion for reconsideration by the People tolls their time to appeal.

¶42 Second, the framers of C.A.R. 4 knew how to provide for motions for reconsideration and tolling when these were intended. For example, C.A.R. 4(a)(3) expressly addresses C.R.C.P. 59 motions in civil cases and tolls the time to file a notice of appeal during the pendency of such a motion. Likewise, C.A.R. 4(b)(2) expressly addresses post-trial motions filed by criminal defendants and tolls the time to appeal when such motions are pending. C.A.R. 4(b)(6), which concerns prosecutorial appeals in criminal cases, in contrast, is silent regarding post-trial motions and any tolling of the prosecution's time to appeal. As noted above, we must presume that the framers acted intentionally in selecting the words of C.A.R. 4, and we may not add words to the rule as the majority does. *See B.C.B.*, ¶ 25, 569 P.3d at 79; *Nesjan*, ¶ 9, 580 P.3d at 598–99. Moreover, inferring a tolling

provision from C.A.R. 4(b)(6)'s silence fails to read all of C.A.R. 4's parts consistently, as we are required to do. *See B.C.B.*, ¶ 24, 569 P.3d at 79.

¶43 Finally, the majority's interpretation renders the tolling provisions of C.A.R. 4(a)(3) and C.A.R. 4(b)(2) superfluous, which we may not do. *See B.C.B.*, ¶ 24, 569 P.3d at 79. If a rule that is silent regarding motions for reconsideration and tolling always allows for reconsideration and tolling, as the majority suggests, then there would have been no reason to include express tolling provisions in C.A.R. 4(a)(3) and C.A.R. 4(b)(2).

¶44 For these reasons, I would conclude that a timely motion for reconsideration by the People does not toll the People's time for filing an appeal in a criminal case. If C.A.R. 4(b)(6) is to include such a provision, then the proper procedure is to request that our Rules of Appellate Procedure Committee amend that rule. I do not believe that we should effectively amend our procedural rules by way of case law, thereby bypassing our usual processes (including standing committee vetting and, often, public comment and hearing) for the adoption or amendment of such rules.

¶45 Accordingly, because the People's notice of appeal was filed sixty-two days after the district court entered the pertinent order dismissing the underlying case with prejudice, that appeal was untimely.

¶46 This, however, does not end my analysis. Under C.A.R. 4(b)(3), upon a showing of excusable neglect in a criminal case, an appellate court may, before or after the time to file a notice of appeal has expired, extend the time for filing such a notice for a period not to exceed thirty-five days from the expiration of the time otherwise prescribed in C.A.R. 4(b). "A party's conduct constitutes excusable neglect when the surrounding circumstances would cause a reasonably careful person similarly to neglect a duty." *In re Weisbard*, 25 P.3d 24, 26 (Colo. 2001) (quoting *Tyler v. Adams Cnty. Dep't of Soc. Servs.*, 697 P.2d 29, 32 (Colo. 1985)).

¶47 Here, as the majority points out, a number of opinions from our court and from divisions of our court of appeals have suggested, albeit perhaps in different contexts, that a timely motion for reconsideration tolls the time for filing an appeal. Maj. op. ¶¶ 15–18 (citing, among other cases, *People v. Powers*, 47 P.3d 686, 689 (Colo. 2002), *superseded by rule on other grounds as stated in, People v. Zhuk*, 239 P.3d 437, 439 (Colo. 2010); *People v. Blue*, 253 P.3d 1273, 1276 (Colo. App. 2011); and *People v. Tuffo*, 209 P.3d 1226, 1229 (Colo. App. 2009)).

¶48 Here, even if an argument could be made that the foregoing cases were incorrect, inapposite, or distinguishable, I believe that a reasonably careful attorney could well have read them, as the People here did, to support the view that a timely motion for reconsideration tolls the time for filing an appeal, even if the applicable appellate rule is silent on the subject.

¶49 Accordingly, I would conclude that the People's untimely filing here was the result of excusable neglect and, therefore, their appeal was properly before the division below.

II. Conclusion

¶50 For these reasons, although I cannot agree that a timely motion for reconsideration filed by the People tolls their time to appeal and that, therefore, the People's appeal was timely in this case, I would conclude that the People's untimely appeal was the result of excusable neglect. Accordingly, like the majority, I believe that the appeal was properly before the division below and that the division reversibly erred in dismissing that appeal.

¶51 I therefore respectfully concur in the majority's judgment in this case.