

IN THE SUPREME COURT OF THE STATE OF NEVADA

CAROL JORY,
Appellant,
vs.
DWIGHT JORY,
Respondent.

No. 43494

FILED

MAR 14 2005

JANET L. WILSON
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying appellant's motion to vacate an order and a voluntary dismissal. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

Respondent has filed a motion to dismiss this appeal. Appellant opposes the motion. As it appears that appellant is not an aggrieved party with standing to appeal, we grant respondent's motion.

Under NRAP 3A(a), only an aggrieved party has standing to appeal. This court has held that in order to be a party within the meaning of NRAP 3A(a), a person must have been served with process, have appeared in the court below, and have been named as a party of record in the trial court.¹ Here, appellant admits that she was never served by respondent. Accordingly, appellant was never made a party to the underlying case and is thus not a party within the meaning of NRAP 3A(a).² Moreover, it appears that appellant never made a formal

¹Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 448, 874 P.2d 729, 735 (1994).

²Id.; Rae v. All American Life & Cas. Co., 95 Nev. 920, 922, 605 P.2d 196, 197 (1979).

appearance in the underlying case until after respondent had voluntarily dismissed the case. Accordingly, as appellant was not served with process and did not make a formal appearance in the underlying case, she is not a party within the meaning of NRAP 3A(a) and therefore lacks standing to appeal the district court's order.³


Additionally, even if appellant had been a party to the underlying case, she would still lack standing to appeal, as she was not aggrieved by the district court's order. A party is aggrieved for the purposes of NRAP 3A(a) "when either a personal right or right of property is adversely and substantially affected' by a district court's ruling."⁴ In the underlying case, respondent, the plaintiff, voluntarily dismissed his complaint against appellant, the defendant. Because the complaint against appellant was dismissed, appellant was not aggrieved, as neither a personal right nor a right of property was adversely affected by the district court's ruling.⁵

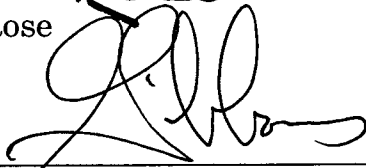
³Valley Bank, 110 Nev. at 448, 874 P.2d at 735.

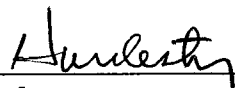
⁴Id. at 446, 874 P.2d at 734 (quoting Estate of Hughes v. First Nat'l Bank, 96 Nev. 178, 180, 605 P.2d 1149, 1150 (1980)).

⁵Appellant maintains that she is aggrieved based on her contention that the orders challenged in this appeal could impact her appeal in Docket No. 42119, which, she argues, would therefore affect her rights. As the appeal in Docket No. 42119 has already been resolved, this argument is now moot. Moreover, this court's decision to reverse the order challenged in Docket No. 42119 and remand was based on this court's conclusion that the administrative closing of respondent's first lawsuit against appellant did not amount to a dismissal with prejudice. This was not based in any way on respondent reopening the first action and voluntarily dismissing that case.

Accordingly, as appellant is not an aggrieved party with standing to appeal under NRAP 3A(a), we grant respondent's motion and ORDER this appeal DISMISSED.⁶


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Jackie Glass, District Judge
Howard Roitman, Settlement Judge
Marquis & Aurbach
Michael H. Schwarz
Clark County Clerk

⁶We deny as moot appellant's December 20, 2004 motion to stay the briefing schedule, or in the alternative, to extend the time for filing opening brief and appendix. Additionally, in light of both this order and the February 14, 2005 order of reversal and remand entered in Docket No. 42119, we deny as moot Carol Jory's January 24, 2005 motion. Finally, we deny as moot respondent's February 23, 2005 motion to dismiss this appeal for mootness.