

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIC ZESSMAN,  
Appellant,  
vs.  
CHUBB GROUP OF  
INSURANCE COMPANIES,  
Respondent.

No. 44243

**FILED**

MAY 19 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order that enjoined a foreclosure sale. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

Proper person appellant Eric Zessman and three others were charged with the armed robbery of United Coin. Zessman was convicted based on his pleading guilty to conspiracy to commit robbery and nolo contendere to the actual robbery. United Coin's insurer, respondent Chubb Group of Insurance Companies, paid the loss and instituted the underlying civil action against Zessman and the other defendants to recover the approximately \$1.5 million it had paid on the claim.

During the underlying proceedings, the district court entered an order granting Chubb Group's motion for a writ of attachment and writ of garnishment. Consequently, Chubb Group, after posting a \$20,000 bond as collateral, attached, among other things, real property in Pahrump, Nevada, that Zessman purportedly had purchased with proceeds from the theft. Chubb Group subsequently filed a motion for summary judgment, which the district court granted.

Thereafter, a third party attempted to foreclose on the Pahrump property pursuant to a lien from Zessman in favor of the third party. In response, Chubb Group, in a motion styled "application for preliminary injunction," moved the district court to enjoin the foreclosure sale. The district court granted the motion. Zessman appeals.

Our review of this appeal reveals a jurisdictional defect. Specifically, the order designated in Zessman's notice of appeal is not substantively appealable.

Chubb Group's motion and the subsequent district court order are styled as requesting and granting a preliminary injunction, respectively. The district court order, however, was not made preliminary to, or even concurrent with, a hearing on the merits, and thus it does not constitute a "preliminary injunction."<sup>1</sup> Instead, the order effectively granted an injunction pending Zessman's appeal from the summary judgment. Indeed, the district court order purports to grant the preliminary injunction pursuant to NRCP 62, and it directs that the injunction will remain in place pending the outcome of Zessman's appeal from the order granting summary judgment to Chubb Group.<sup>2</sup>

This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule,<sup>3</sup> and no statute or court rule authorizes an appeal from an order granting an injunction pending an

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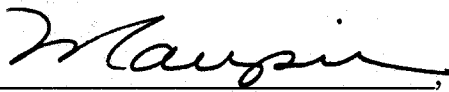
<sup>1</sup>See NRCP 65(a).

<sup>2</sup>See NRCP 62(c) (providing for an injunction pending appeal).

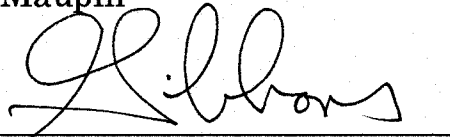
<sup>3</sup>Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

appeal from a final judgment.<sup>4</sup> We therefore lack jurisdiction to consider this appeal, and we

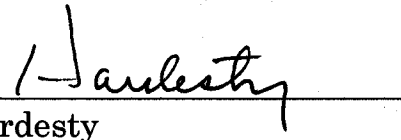
ORDER this appeal DISMISSED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Valorie Vega, District Judge  
Eric W. Zessman  
Morris Polich & Purdy, LLP/Las Vegas  
Clark County Clerk

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<sup>4</sup>See NRAP 3A(b) (listing orders that may be appealed); see generally KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991) (providing that no statute or court rule authorizes an appeal from a district court order staying execution of a summary judgment); Brunzell Constr. v. Harrah's Club, 81 Nev. 414, 419, 404 P.2d 902, 905 (1965) (stating that “[a]n order granting or denying a stay of proceedings is not among [the list of statutorily appealable determinations]”); cf. Greene v. Dist. Ct., 115 Nev. 391, 990 P.2d 184 (1999) (providing that a final judgment may only be reopened in conformity with the rules of civil procedure).

We note that the order does not qualify as a special order made after final judgment, appealable under 3A(b)(2), because the designated order does not affect the rights incorporated in the judgment. See Gumm v. Mainor, 118 Nev. 912, 920, 59 P.3d 1220, 1225 (2002).