

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY BAIRD AND KUSUM BAIRD,
Appellants,
vs.
MAGIC MAZDA, LLC., AND
COURTESY OLDSMOBILE, INC.,
Respondents.

No. 45710

FILED

JAN 24 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Reha*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order granting respondents' motion for attorney fees and costs against appellant Kusum Baird, who, following respondents' unopposed motion, was dismissed from the action below. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Respondents have moved to dismiss this appeal for lack of jurisdiction, arguing that the order awarding attorney fees and costs was not a final, appealable order. Respondents assert that, because Jeffrey's claims remain pending below, and the district court did not certify its order granting respondents' motion for attorney fees against Kusum as final pursuant to NRCP 54(b), the district court has not entered a final judgment adjudicating all the rights and liabilities of all the parties.

Respondents have also moved for an award of attorney fees under NRAP 38, arguing that, because the issue of jurisdiction is so obvious, the appeal can only be viewed as frivolous. Respondents further point out that the docketing statement inaccurately characterized the order from which appellants wish to appeal as a "Judgment after bench

trial,” and wrongly claimed that it was certified as final under NRCP 54(b).

Respondents also request that this court “direct that the action of the appellants, in the district court, be dismissed.” Alternatively, respondents request a “tailored sanction removing appellant’s counsel from the case,” arguing that they have had to respond to repeated unwarranted assertions that stand directly contrary to the Nevada Rules of Civil and Appellate Procedure.

Appellants oppose the motion to dismiss their appeal, asserting that, because Kusum is no longer a party to the pending district court action, the attorney fee award against her is a final determination. Appellants cite to Taylor v. Barringer¹ in support of their contention.

As appellants conceded in their docketing statement, Jeffrey Baird’s claims alleging fraud against respondents remain pending below and, contrary to their docketing statement assertion, the district court has not certified as final under NRCP 54(b), its order awarding attorney fees against Kusum. Appellants’ reliance on Taylor v. Barringer is misplaced. In that case, we recognized that whether a district court’s order is final depends on what it substantively accomplishes, rather than how it is titled.² However, that does not change the fact that a final order is one that disposes of all of the issues presented in the case.³ In more recent

¹75 Nev. 409, 344 P.2d 676 (1959).

²Id. at 410, 344 P.2d at 676.

³Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (“[A] final judgment is one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court”).

decisions, we have clarified that orders that dispose of fewer than all of the parties or claims in a case are not appealable, absent a finality certification under NRCP 54(b).⁴ Accordingly, as we lack jurisdiction to consider the order that appellants seek to appeal, we dismiss this appeal.

Moving to the issue of sanctions, when attorneys do not take seriously their NRAP 14 obligations to properly complete the docketing statement, sanctions may be appropriate.⁵ In opposing respondents' motion to dismiss this appeal, appellants' attorney fails to explain the inaccuracies in the docketing statement, as outlined by respondents. We consider this an admission that the attorney did not consider the statements important enough to warrant careful attention.⁶ To deter his disregard for the appellate rules in the future, we direct attorney David R. Ford to pay two hundred and fifty dollars (\$250.00) to the Nevada Supreme Court Law Library, and provide the clerk of this court with proof of such payment within thirty days from the date of this order. Although, under NRAP 38, respondents seek their fees and costs as a sanction against appellants for filing a frivolous appeal, a sanction against appellants' attorney under NRAP 14(c) is more appropriate and, thus, we deny respondents' request for NRAP 38 sanctions.

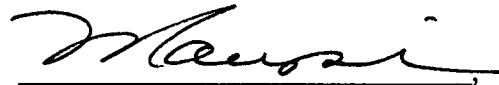
⁴See id. at 428 n.4, 996 P.2d at 418 n.4; Rae v. All American Life & Cas. Co., 95 Nev. 920, 922, 605 P.2d 196, 197 (1979) (“[W]hen multiple parties are involved in an action, a judgment is not final unless the rights and liabilities of all parties are adjudicated.”).

⁵NRAP 14(c); Moran v. Bonneville Square Assocs., 117 Nev. 525, 25 P.3d 898 (2001).


⁶KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991).

Because the issues that remain pending in the district court are unrelated to the district court's attorney fees and costs order against Kusum, and because Kusum is no longer a party to the case, we deny respondents' request that we direct the district court to dismiss appellants' pending action. Finally, we deny respondents' request for a "tailored sanction removing appellant's counsel from the case" because, to the extent that the request refers to the district court proceedings, it is the district court that controls attorneys who appear before it,⁷ and, to the extent that the request refers to proceedings in this court, this order and the sanction imposed against appellants' counsel are sufficient to address the deficiencies in this appeal.

It is so ORDERED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Douglas W. Herndon, District Judge
David R. Ford
Nersesian & Sankiewicz
Clark County Clerk
Supreme Court Law Librarian

⁷Brown v. Dist. Ct., 116 Nev. 1200, 1205, 14 P.3d 1266, 1269 (2000).