

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN P. GOTTLIEB,
Appellant,
vs.
JILL F. BRANDIN,
Respondent.

No. 45836

FILED

FEB 24 2006

JILL F. BRANDIN,
Appellant,
vs.
STEPHEN P. GOTTLIEB,
Respondent.

No. 45952

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

STEPHEN P. GOTTLIEB,
Appellant,
vs.
JILL F. BRANDIN,
Respondent.

No. 46175

ORDER DISMISSING APPEAL (DOCKET NO. 45952)

These are consolidated appeals from district court orders (1) granting summary judgment in favor of Jill F. Brandin, Docket No. 45836; (2) awarding costs and attorney fees to Brandin, and denying Stephen P. Gottlieb's motion to retax costs, Docket No. 46175; and (3) denying Brandin's motion to dismiss the case under NRCP 41(e), Docket No. 45952. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

In her appeal, Docket No. 45952, Brandin assigns error to the district court's order denying her motion to dismiss under NRCP 41(e),

arguing that dismissal under NRCP 41(e) was mandatory. Gottlieb has filed a motion to dismiss Brandin's appeal for lack of jurisdiction, arguing that, because the district court granted Brandin's summary judgment motion prior to denying her NRCP 41(e) motion as moot, Brandin is not an "aggrieved" party as required by NRAP 3A(a).

Brandin opposes the motion to dismiss her appeal, arguing that the order denying her motion to dismiss the underlying action is a "special order made after final judgment" under NRAP 3A(b)(2) because it affects her appeal rights, and that, because her rights are affected, she is an "aggrieved party" under NRAP 3A(a).

Only a party who is aggrieved by a judgment may appeal.¹ "A party who prevails in the district court and who does not wish to alter any rights of the parties arising from the judgment is not aggrieved by the judgment."² A non-aggrieved respondent may, without cross-appealing, advance any argument in support of the judgment even if the district court rejected or did not consider the argument.³

Here, Brandin still may, without taking a separate appeal, argue in support of the judgment based on any matter appearing in the record, even if the district court rejected or did not consider the argument.⁴ Thus, since Gottlieb has appealed from the summary judgment order, Brandin, in response, may advance arguments supporting

¹NRAP 3A(a).

²Ford v. Showboat Operating Co., 110 Nev. 752, 756, 877 P.2d 546, 549 (1994) (emphasis omitted).

³Id. at 755, 877 P.2d at 548.

⁴See id.

the district court's order, including her argument that dismissal was mandated under NRCP 41(e).⁵ Accordingly, we grant Gottlieb's motion and dismiss the appeal in Docket No. 45952.

It is so ORDERED.⁶

Douglas J.
Douglas

Becker J.
Becker

Parraguirre J.
Parraguirre

cc: Hon. Brent T. Adams, District Judge
Nicholas F. Frey, Settlement Judge
Alling & Jillson, Ltd.
Lemons Grundy & Eisenberg
Perry & Spann/Reno
Bradley Drendel & Jeanney
Washoe District Court Clerk

⁵Since we conclude that Brandin is not an aggrieved party, we need not consider whether the order denying her NRCP 41(e) motion is a special order after final judgment.

⁶In light of this order, we deny Brandin's cross-motion, requesting that we consider Docket No. 45952 before considering Docket Nos. 45836 and 46175, and we deny Gottlieb's motion for leave to file a reply.