

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN M. DE LONG,
Appellant,
vs.
BRIAN CRAIG PHELPS,
Respondent.

No. 47645

FILED

NOV 15 2006

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

ORDER DISMISSING APPEAL

This is a proper person appeal from a June 6, 2006 interlocutory district court order setting a pre-trial conference. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

Respondent has moved to dismiss this appeal for lack of jurisdiction, asserting that the district court has not entered a final judgment. This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule.¹ No statute or court rule authorizes an appeal from an interlocutory order setting a pre-trial conference and declining to rule on motions until that conference.²

¹Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

²See NRAP 3A(b)(1); cf. Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998).

In appellant's civil appeal statement, he indicates that the June 6 order is appealable under NRAP 3A(b)(3). That provision allows for an appeal only from an interlocutory order in actions to redeem real property from a mortgage or a lien that determines redemption rights and directs an accounting, or from certain orders in actions for partition. As this matter appears to constitute neither an action to redeem real property from a mortgage or a lien, in which an order directing an accounting has been entered, nor an action for partition, this court does not have jurisdiction over this appeal pursuant to NRAP 3A(b)(3).

Further, we note that the June 6 order indicates that a writ of attachment issued below and that appellant filed a motion "to quash the seizure order." Although NRAP 3A(b)(2) allows for an appeal from an order refusing to dissolve an attachment, to the extent that appellant's motion to quash can be so construed, we note that the June 6 order defers ruling on that motion until a July 2006 pre-trial conference. It is unclear from the documents before this court whether the conference was held and appellant's motion was formally resolved. In any case, the appeal documents do not show that a district court order refusing to dissolve an attachment has been entered.³ Thus, this court does not have jurisdiction over this appeal under NRAP 3A(b)(2).⁴

³Cf. NRAP 4(a)(6) (providing that a premature notice of appeal may operate prospectively once an appealable order has been entered).

⁴In light of this order and NRAP 11(a)(2), appellant's notice designating the record on appeal is denied as moot.

Accordingly, as we lack jurisdiction, we grant respondent's motion⁵ and

ORDER this appeal DISMISSED.⁶

Becker, J.
Becker

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Jerome Polaha, District Judge
Stephen M. De Long
Brian Craig Phelps
Washoe District Court Clerk

⁵To the extent respondent requests this court to prohibit appellant from filing any appeals until a final judgment is rendered or from proceeding in this court in the future with in forma pauperis status, that request is denied.

⁶Appellant, in his civil appeal statement, requests extraordinary writ relief. But NRS Chapter 34 prescribes the procedure for filing a writ petition, and appellant has not followed that procedure here. Moreover, writ relief is available to control the district court's exercise of discretion or acts in excess of jurisdiction only when a clear right to the relief sought is demonstrated and when an appeal would not provide an adequate legal remedy. See Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991); Conklin Ex Rel. v. Buckingham, 58 Nev. 450, 453, 83 P.2d 462, 463 (1938). Here, the district court indicated that it would rule on appellant's motion at a later date, after the appropriate procedure had been complied with. Thus, writ relief is not appropriate at this juncture.