

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDGAR JUNIOR SMITH, II,
Appellant,
vs.
SANDRA J. WEBSTER-SMITH,
Respondent.

No. 48401

FILED

APR 09 2007

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

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order granting respondent's motion to amend her answer to include a counterclaim. Eighth Judicial District Court, Family Court Division, Clark County; Sandra Pomrenze, Judge.

In addition to the order challenged on appeal, appellant also purports to challenge (1) a warrant issued by the district court for appellant's arrest, (2) an order holding appellant in contempt, (3) an award of spousal support to respondent, and (4) an award of attorney fees to respondent. 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 order granting a motion to amend an answer to include a counterclaim, the issuance of a warrant for a party's arrest, or an order holding a party in contempt.² Moreover, because the divorce complaint remains pending in the district court and no final judgment has

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

²See NRAP 3A(b) (listing orders and judgments from which an appeal may be taken); Pengilly v. Rancho Santa Fe Homeowners, 116 Nev. 646, 5 P.3d 569 (2000) (recognizing that a contempt order arising from within an underlying district court action is not appealable).

been entered, the award of spousal support and attorney fees is interlocutory and not independently appealable.³ Accordingly, we conclude that we lack jurisdiction over this appeal,⁴ and we

ORDER this appeal DISMISSED.⁵

Parraguirre, J.
Parraguirre

Hardesty, J.
Hardesty

Douglas, J.
Douglas

³See NRAP 3A(b); Engebretson v. Engebretson, 73 Nev. 19, 307 P.2d 115 (1957).

⁴Appellant also asks this court to reassign his case to a judge in a district court outside of the Eighth Judicial District. To the extent that appellant makes allegations of judicial bias or seeks to disqualify Judge Pomrenze, this appeal is not the proper vehicle for seeking such relief. See Towbin Dodge, LLC v. Dist. Ct., 121 Nev. 251, 112 P.3d 1063 (2005) (discussing procedures for seeking the disqualification of a district court judge). Moreover, to the extent that this argument constitutes an attempt to challenge the venue of the underlying case, appellant has already appealed from the district court's denial of his motion to change venue and that appeal was dismissed because it was untimely filed. Smith v. Webster-Smith, Docket No. 47389 (Order Dismissing Appeal, June 30, 2006). Appellant's failure to file a timely appeal from the order denying his motion to change venue bars him from attempting to challenge that order in the context of an appeal from a subsequently entered district court order. See NRAP 3A(b)(4) (providing that when a party fails to timely appeal from an order denying a motion to change venue, there shall be no appeal from that order "on appeal from the judgment in the action or proceeding or otherwise").

⁵As appellant has paid the filing fee for this appeal, we deny as moot his motion to proceed in forma pauperis. Additionally, in light of this order, we deny as moot all other requests for relief pending in this appeal, including appellant's motion for a stay and his request for transcripts.

cc: Hon. Sandra Pomrenze, District Judge, Family Court Division
Edgar Junior Smith, II
Mathew P. Harter
Clark County Clerk