

IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDY WAGONER,
Appellant,

vs.

RAFAEL RICHARDS; REGIONAL
TRANSPORTATION COMMISSION,
D/B/A ATC/VANCOM, INC., AN
ILLINOIS CORPORATION, AND D/B/A
CAT; CITIZENS AREA TRANSIT;
ATC/VANCOM OF NEVADA LIMITED
PARTNERSHIP, A NEVADA
CORPORATION; AND ATC/VANCOM,
INC., A NATIONAL COMPANY,
Respondents.

No. 50834

FILED

JAN 23 2009

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER DISMISSING APPEAL
AND REFERRING COUNSEL TO STATE BAR

This is an appeal from a district court judgment on a jury verdict. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

On March 14, 2008, this court entered an order conditionally imposing sanctions on appellant for failure to file his docketing statement. In the March 14 order, we explained that, under the Nevada Rules of Appellate Procedure, sanctions, such as the dismissal of the appeal, may be imposed for the failure to pay the filing fee or to file a case appeal statement, transcript request form, docketing statement, and briefs in a timely manner. See NRAP 3(a); NRAP 9(a)(3); NRAP 14(c); NRAP 31(c). Accordingly, appellant was ordered to pay \$500 to the Supreme Court Law Library and to provide proof of such payment within 15 days; we also noted, however, that the sanction automatically would be vacated if

appellant filed and served his docketing statement or a motion to extend time within 10 days from that order's date.

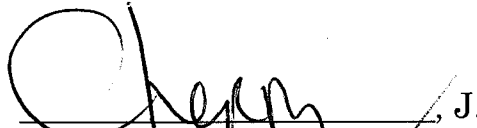
Appellant failed to timely respond to our March 14 order. As a result, we entered an order regarding sanctions on April 17, 2008, which noted that the March 14 \$500 sanction remained in effect. Appellant's counsel, Thomas C. Michaelides, was directed to file and serve the docketing statement and to provide proof of the sanction's payment within seven days from April 17. Counsel was warned that failure to comply with the order could result in additional sanctions, including referral to the State Bar of Nevada for investigation.

Thereafter, on November 14, 2008, we entered a third order regarding the \$500 sanction. In the November 14 order, we noted that appellant had untimely and without any motion for an extension of time submitted his docketing statement. Nonetheless, we directed the clerk to file the untimely docketing statement and gave appellant another ten days to pay the \$500 sanction and provide this court with proof of the sanction's payment. We again cautioned that failure to comply in any manner with the November 14 order could result in additional sanctions, including the dismissal of this appeal and referral to the State Bar. Finally, appellant was also given 15 days from November 14 to file and serve his transcript request form or a certificate indicating that no transcript would be requested.¹


¹The November 14, 2008, order was mailed to attorney Michaelides via certified mail, return receipt requested, at his address of record with this court, 3305 Spring Mountain Road, Suite 107, Las Vegas, Nevada, 89102. A review of the State Bar of Nevada records reflects the same address for Michaelides. On December 26, 2008, however, the November
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To date, appellant's counsel has failed to comply with our orders regarding the \$500 sanction and the November 14 order's directive with respect to requesting transcripts. We conclude that the disregard of this court's procedural rules and the orders entered in this matter warrants the imposition of additional sanctions. Accordingly, we dismiss this appeal and refer appellant's counsel to the State Bar of Nevada for investigation pursuant to SCR 105.² Bar Counsel shall, within 90 days of the date of this order, inform this court of the status or results of the investigation and any disciplinary proceedings.

It is so ORDERED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

... continued

14 order was returned to this court with the notation "unclaimed, unable to forward." Thus, it appears that attorney Michaelides might not be in compliance with SCR 79(1), (2) and (4) (providing that state bar members must maintain a permanent mailing address with the state bar and advise the state bar of any address change within 30 days). Although it appears that Michaelides also has a Maryland address, he apparently has not complied with SCR 42.1, which requires attorneys who do not maintain an office in Nevada to associate a licensed Nevada attorney who does maintain a Nevada office or to designate a Nevada attorney within the county for service.

²The clerk of this court shall provide bar counsel with copies of this court's February 7, 2008, notice, and the March 14, April 17, and November 14, 2008, orders.

cc: Hon. Valorie Vega, District Judge
M. Nelson Segel, Settlement Judge
Thomas C. Michaelides
Wolfenzon Schulman & Ryan
Eighth District Court Clerk
Supreme Court Law Library
Rob W. Bare, Bar Counsel