

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY R. GREGORY,

No. 34629

Appellant,

vs.

PEPPER MCBRIDE, ADMINISTRATOR OF  
THE ESTATE OF BELINDA GREGORY,  
DECEASED,

Respondent.

**FILED**

DEC 08 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT

BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a divorce decree.

Appellant Gary Gregory contends that the district court erred by entering the written decree of divorce nunc pro tunc because the divorce action was automatically extinguished by the death of his wife, Belinda, which occurred before the written decree was signed by the district court.

If a party dies after a verdict or decision and before judgment is entered, the district court may render judgment thereon. See NRS 17.140 (preserving the benefits of a cause of action which has ripened into a jury verdict or a decision).

The record reveals that the district court issued an oral pronouncement of dissolution and ruled on all issues of fact in the divorce action in this case on April 28, 1999. Belinda died on June 6, 1999. Thus, the divorce action was not extinguished by Belinda's death, and the district court properly entered a nunc pro tunc decree of divorce relating the final divorce decree back to the date it issued its oral rulings, a point in time before Belinda's death. Accordingly, we conclude that Gary's contention lacks merit.

Alternatively, Gary contends that the nunc pro tunc decree of divorce is invalid because it does not comply with EDCR 7.22 (amended orders) or NRCP 25 (substitution of a party).

EDCR 7.22 provides for the entry of a nunc pro tunc order as the procedural mechanism to be employed by the district court to correct a clerical error in a written order. See EDCR 7.22. However, the term "nunc pro tunc" generally describes the inherent power of a court to make its record speak the truth. See Koester v. Estate of Koester, 101 Nev. 68, 72, 693 P.2d 569, 572 (1985). The nunc pro tunc decree entered by the district court in this case does not fall within the purview of EDCR 7.22 because it was not entered to correct a clerical error in a previous order, and the "nunc pro tunc" language was included to highlight that the date of entry related back to the date the district court made its oral pronouncement.

Additionally, although NRCP 25(a) permits the district court to substitute a proper party if a party to an action dies, the entry of the nunc pro tunc order by the district court in this case without substitution of Belinda's representative does not invalidate the decree, which was entered pursuant to the inherent power of the district court to make its record speak the truth. All of the issues in the divorce action were adjudicated during the lifetime of the parties, and the nunc pro tunc decree simply related back the date of entry to that of the district court's oral pronouncement of divorce. Accordingly, we conclude that the district court properly entered the nunc pro tunc divorce decree.

Having considered Gary's contentions and concluded that they lack merit, we affirm the order of the district court.

Young J.  
Young

Maupin J.  
Maupin

Becker J.  
Becker

cc: Hon. Steven E. Jones, District Judge,  
Family Court Division  
Benjamin B. Childs  
Pepper McBride  
Clark County Clerk