

IN THE SUPREME COURT OF THE STATE OF NEVADA

CAPITAL GROWTH, LLC, A NEVIS
LIMITED LIABILITY CORPORATION;
KERRY ROGERS; VENTANA
DEVELOPMENT FUND, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; AND VENTANA
DEVELOPMENT, INC., A NEVADA
CORPORATION,
Appellants,

vs.

SCOTT S. BRADY, AS SPECIAL
ADMINISTRATOR FOR THE ESTATE
OF WILLIAM T. BRADY; JAMES
CARDWELL; PUNTA ARENA DE LA
VENTANA, S.A. DE C.V.; BOCA DE LA
SALINA, S.A. DE C.V.; MID-AMERICA
INVESTMENTS, INC.; ATLAS
INVESTMENTS, INC.; AND AETNA
INVESTMENTS, INC.,
Respondents.

No. 53326

FILED

MAR 30 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court judgment in a real property action. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.


Respondents have filed a motion to dismiss this appeal under the fugitive disentitlement doctrine.¹ We agree with respondents' argument and conclude that this appeal should be dismissed under Guerin v. Guerin, 116 Nev. 210, 993 P.2d 1256 (2000). In Guerin, this court granted a motion to dismiss a civil appeal, explaining that this court has discretion to dismiss an appeal filed by a party who has refused to comply with district court orders and is evading arrest for contempt. 116 Nev. at 213, 993 P.2d at 1258; see also U.S. v. Barnette, 129 F.3d 1179, 1183 (11th Cir. 1997) (cited with approval in Guerin and explaining that the rationale behind such dismissals is to avoid the inequity of allowing one who refuses to subject himself to the court's authority to then use the resources of the court only if the outcome of a particular decision is favorable); Sarlund v. Anderson, 205 F.3d 973, 975 (7th Cir. 2000) (dismissing a civil appeal and explaining that "[i]f the appellate court decides the appeal in [the fugitive's] favor, he'll return, but if it decides against him, he won't, and the decision will have been a futility").

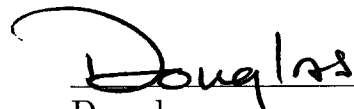
Likewise, here, appellant Kerry Rogers was sentenced to 25 days in the Clark County Detention Center for contempt of court in a related matter. Even though he was unsuccessful in challenging that contempt order, he failed to report for his contempt sentence, instead choosing to relocate to another country. The district court issued bench warrants for Rogers' arrest.


¹The district court found that appellants Capital Growth, LLC, Ventana Development Fund, LLC, and Ventana Development, Inc. are corporate alter egos of appellant Kerry Rogers.

We conclude that the dismissal of this appeal is warranted here under the fugitive disentitlement doctrine, see Guerin, 116 Nev. 210, 993 P.2d 1256; Degen v. United States, 517 U.S. 820, 823-24 (1996) (noting that the inherent powers of courts should be used with care), and therefore we grant the motion and

ORDER this appeal DISMISSED.²


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Ara H. Shirinian, Settlement Judge
Hutchison & Steffen, LLC
Fennemore Craig, P.C./Las Vegas
Eighth District Court Clerk

²In light of this order, we do not reach the separate jurisdictional issue raised in our November 25, 2009, show cause order.