

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
WILLIAM POWELL LEAR A/K/A
WILLIAM P. LEAR, W.P.LEAR, AND
BILL LEAR, DECEASED.

No. 53922

PATRICK LEAR; LORIN LEAR;
JENNIFER LEAR; VALENTE BERTELLI;
VANESSA BERTELLI; MARA BERTELLI;
JESSE JACKSON; LUKE JACKSON;
AND CHLOE JACKSON,

Appellants,

vs.

JAMES MURPHY; MICHAEL LEE; AND
TOMMY TUCKER,
Respondents.

FILED

FEB 05 2010

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

ORDER DISMISSING APPEAL

This is an appeal from a district court order addressing respondents' motion to show cause why appellants should not be held in contempt of court for failing to attend a court hearing and awarding attorney fees as sanctions. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

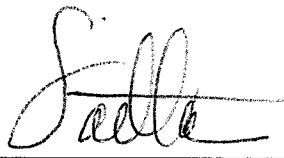

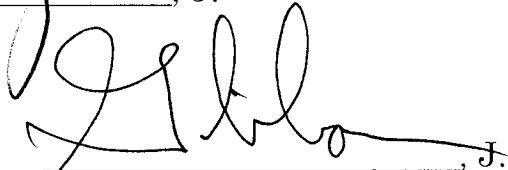
When our preliminary review of the docketing statement and the NRAP 3(e) documents revealed a potential jurisdictional defect, we directed appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the order designated in the notice of appeal was not substantively appealable, since no statute or court rule authorizes appeals from orders imposing sanctions for contempt. See NRAP 3A(b); NRS 155.190(10); Pengilly v. Rancho Santa Fe Homeowners, 116 Nev. 646, 5 P.3d 569 (2000). We noted that,

although in wills and estates cases, NRS 155.190(10) authorizes appeals from orders “[d]irecting or allowing the payment of a[n] . . . attorney’s fee,” that statute did not appear to pertain to attorney fees awarded as sanctions for contempt. See generally In re Herrmann, 100 Nev. 1, 3, 21, 26, 677 P.2d 594, 595, 607, 610 (1984) (recognizing, implicitly, that NRS 155.190 authorizes appeals from orders awarding attorney fees for services rendered to the estate, which awards would reduce estate assets).

Appellants timely responded, asserting that jurisdiction exists under NRS 155.190(10) and (13) (amount in controversy exceeds \$5000). Respondents replied, as permitted, listing several reasons why the order is not appealable, including the contrary intent behind NRS 155.190 and similar statutes as interpreted by this court and California courts, the meaning of NRS 155.190(10)’s language “directing the payment of attorney’s fees” being inapplicable to the appealed contempt order, NRS Chapter 155’s potential inapplicability to this matter, and our determination in Pengilly that contempt orders are not appealable, but rather, reviewable through writ petition. 116 Nev. 646, 5 P.3d 569 (2000).

We agree with respondents’ arguments and conclude that we lack jurisdiction over this appeal. Accordingly, we

ORDER this appeal DISMISSED.

 _____, J. Saitta	 _____, J. Cherry	 _____, J. Gibbons
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cc: Hon. Steven R. Kosach, District Judge
Holland & Knight LLP
Law Office of Lisa Rasmussen
Cooke Roberts & Reese
Morris Peterson/Reno
Washoe District Court Clerk