

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL RIGHTS AS TO: T.R., A MINOR; A.H., A MINOR; C.H., A MINOR; I.H., A MINOR; AND T.R., A MINOR.

THEODORE A.,

Appellant,

vs.

T.R., A MINOR; A.H., A MINOR; C.H., A MINOR; I.H., A MINOR; T.R., A MINOR; AND STATE OF NEVADA DEPARTMENT OF FAMILY SERVICES, Respondents.

No. 63740

FILED

JAN 21 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a juvenile court order arising in an NRS Chapter 432B proceeding that terminated the State of Nevada's custody over the minor children. Eighth Judicial District Court, Family Court Division, Clark County; Frank P. Sullivan, Judge.

When our preliminary review of the docketing statement and the NRAP 3(g) documents revealed two potential jurisdictional defects, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. First, the show cause order explained that the challenged order did not appear to be substantively appealable. In the order, the juvenile court terminated the State of Nevada's temporary custody over the subject children, concluding the NRS Chapter 432B proceeding, but because the order arose from an abuse and neglect proceeding in a juvenile court, it is not appealable under NRAP 3A(b)(7) (authorizing an appeal from an order "that did not arise in a juvenile court

that finally establishes or alters the custody of minor children”). Second, as the show cause order noted, it appeared that appellant, as the children’s mother’s significant other, was not aggrieved by the district court’s decision, as the order did not affect his rights, obligations, or status. NRAP 3A(a); *Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 446, 874 P.2d 729, 734 (1994) (stating that a party is aggrieved when a personal or property right is adversely affected by the district court’s ruling). Appellant timely responded to the show cause order, asserting that the order is appealable as a final decision under NRAP 3A(b)(1) because it was signed by a district judge, and that while he does not challenge the ultimate custody arrangement, he is aggrieved because the district court’s placement of an abuse and neglect finding upon his record has led to adverse consequences in the workplace.

Typically, orders entered in NRS Chapter 432B proceedings are not final, but rather temporary and thus not appealable. *See In re Temp. Custody of Five Minor Children*, 105 Nev. 441, 443, 777 P.2d 901, 902 (1989) (stating that no appeal may be taken from an NRS Chapter 432B temporary custody order). Moreover, orders finally concluding NRS Chapter 432B proceedings arise in the juvenile court and concern child custody, and thus, they likewise are not appealable. NRAP 3A(b)(7). Instead, such orders must be challenged by way of writ petition. *See In re A.B.*, 128 Nev. ___, ___, 291 P.3d 122, 126 (2012) (“[B]ecause the lower court’s order arises from a juvenile proceeding and concerns child custody, it is not substantively appealable under NRAP 3A, and therefore, [the] only remedy is by way of a petition for a writ of mandamus.”); *Clark Cnty. Dist. Attorney v. Dist. Court*, 123 Nev. 337, 346, 167 P.3d 922, 928 (2007) (considering a petition for extraordinary relief after recognizing that an

order entered under NRS Chapter 432B is not appealable); *Matter of Guardianship of N.S.*, 122 Nev. 305, 311, 130 P.3d 657, 667 (2006) (recognizing that a writ of mandamus is the appropriate remedy when challenging an order arising in an abuse and neglect proceeding). Accordingly, we lack jurisdiction, and we

ORDER this appeal DISMISSED.

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

Saitta, J.
Saitta

cc: Hon. Frank P. Sullivan, District Judge, Family Court Division
Law Firm Express
Legal Aid Center of Southern Nevada
Attorney General/Las Vegas
Eighth District Court Clerk