IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THOMAS G. SHEA,
Appellant,
vs.
MACGREGOR APARTMENTS,
Respondent.

No. 68824

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing certain post-judgment requests for relief in a torts action. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

As an initial matter, to the extent appellant challenges the judgment on the arbitration award entered on February 24, 2014, that judgment is not before us, as no timely notice of appeal was filed as to that judgment. *See* NRAP 4(a)(1) (requiring a notice of appeal to be filed within 30 days after service of written notice of entry of a judgment). Additionally, the portion of the district court's post-judgment order declaring appellant a vexatious litigant is not appealable, and thus, we do not consider that portion of the district court's order. *See Peck v. Crouser*, 129 Nev. ___, ___, 295 P.3d 586, 588 (2013) (concluding that vexatious litigant orders are not appealable). Instead, our review of this appeal is limited to that portion of the district court's order dismissing appellant's post-judgment requests for relief for failure to follow the applicable

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statutes and rules, which were the only items pending in the district court at the time the challenged order was entered.[1]

In particular, nearly six months after entry of the judgment, appellant filed in the district court a "motion to review," which arguably could have been construed as a motion for relief from the judgment under NRCP 60(b). Appellant, however, did not identify that rule in the motion or make any arguments that the grounds for relief identified in NRCP 60(b) applied to warrant setting aside the judgment. Nor did appellant support the motion with points and authorities or any affidavits on which the motion was based. *See* WDCR 12(1); DCR 13(2). Moreover, no certificate of service was attached to the motion. *See* NRCP 5(a), (b)(4). And after respondent opposed the motion, appellant did not file his reply within five days, but instead, waited nearly two months before filing his reply. *See* WDCR 12(4); DCR 13(4). Appellant also did not file a written

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[1]While the district court's order purported to be a dismissal of the case, there can only be one final judgment in a case, *see Greene v. Eighth Judicial Dist. Court*, 115 Nev. 391, 395, 990 P.2d 184, 186 (1999) (explaining that there cannot be multiple final judgments in a single action), and a judgment on the arbitration award had already been entered in this case. Thus, we conclude that the order currently before us was actually an order dismissing the pending post-judgment requests for relief, rather than a dismissal of the case. *See Lee v. GNLV Corp.*, 116 Nev. 424, 427, 996 P.2d 416, 418 (2000) (providing that, in determining jurisdiction, a court should examine what is substantively accomplished by the order). Nevertheless, because the requested relief would have affected the rights of the parties growing out of the previously-entered judgment, we conclude that the dismissal of the requests for relief constituted a special order entered after final judgment that is appealable under NRAP 3A(b)(8). *See Gumm v. Mainor*, 118 Nev. 912, 920, 59 P.3d 1220, 1225 (2002) (providing that a special order entered after final judgment "must be an order affecting the rights of some party to the action, growing out of the judgment previously entered").

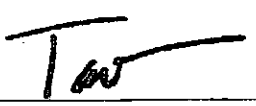
request for submission of the motion, and thus, it was not ruled on by the district court. *See* WDCR 12(4); DCR 13(4).

Three months after filing the reply relating to the "motion to review," appellant filed in the same district court action a petition for a writ of mandamus. But a writ of mandamus is an action to compel an inferior tribunal to perform an act required by law. *See Mineral Cty. v. State, Dep't of Conservation & Nat. Res.*, 117 Nev. 235, 242-43, 20 P.3d 800, 805 (2001). Here, appellant was not asking the court to compel an inferior tribunal to act, but rather, was asking for relief from the action of the court itself. Thus, appellant's petition for a writ of mandamus was improper. *See id.*

Under these circumstances, we conclude that the district court did not abuse its discretion by dismissing the post-judgment requests for relief based on appellant's failure to follow the Nevada Revised Statutes, the Nevada Rules of Civil Procedure, the District Court Rules, and the Washoe District Court Rules. *See Esworthy v. Williams*, 100 Nev. 212, 213, 678 P.2d 1149, 1150 (1984) (recognizing the district court's discretion to dismiss an action for failure to comply with statutes, rules of court, or court orders); *see also Lombardi v. Citizens Nat'l Tr. & Sav. Bank of L.A.*, 289 P.2d 823, 824 (Cal. Ct. App. 1955) (explaining that pro se litigants must follow the same rules of procedure as parties proceeding through attorneys). Accordingly, we affirm the district court's order.

It is so ORDERED.

_____, C.J.
Gibbons



_____, J.
Tao

_____, J.
Silver

cc: Hon. Elliott A. Sattler, District Judge
Thomas Gregory Shea
Goicoechea, Di Grazia, Coyle & Stanton, Ltd.
Washoe District Court Clerk