

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES ANTHONY DAVIS,
Appellant,
vs.
THE HONORABLE DAVID B. BARKER,
DISTRICT JUDGE; FRANK J.
COUMOU, CHIEF DEPUTY DISTRICT
ATTORNEY; H. LEON SIMON, CHIEF
DEPUTY DISTRICT ATTORNEY;
CAROLINE BATEMAN, DEPUTY
DISTRICT ATTORNEY; AND STEVEN
B. WOLFSON, CLARK COUNTY
DISTRICT ATTORNEY; CATHERINE
CORTEZ MASTO, FORMER NEVADA
ATTORNEY GENERAL; THE STATE
OF NEVADA; THE HONORABLE
JENNIFER TOGLIATTI, DISTRICT
JUDGE; AND STATE BAR OF
NEVADA,
Respondents.

No. 67743

FILED

FEB 03 2016

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

ORDER DISMISSING APPEAL

This is a pro se appeal from a district court order dismissing appellant's civil rights complaint for failure of service. Eighth Judicial District Court, Clark County; Rob Bare, Judge.

Our review of the documents submitted to this court under NRAP 3(g) reveals a jurisdictional defect. Specifically, it appears several defendants remain pending below, such that no final judgment has been entered in the underlying case. See NRAP 3A(b)(1) (providing a right to appeal from "[a] final judgment entered in an action"); *Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (defining "a final judgment [as] one that disposes of all the issues presented in the case, and leaves

nothing for the future consideration of the court, except for post-judgment issues such as attorney's fees and costs").

In particular, the order granting the motion to dismiss filed by respondents district court judges David Barker and Jennifer Togliatti, former Nevada Attorney General Catherine Cortez Masto, and the State of Nevada simply states the motion to dismiss filed by these parties is granted.¹ It is not clear whether the district court's dismissal order addresses the other defendants. Further, the record is not clear concerning the service of the other defendants nor was the order certified as final pursuant to NRCP 54(b).² Thus, we lack jurisdiction over this appeal. See NRAP 3A(b)(1); *Lee*, 116 Nev. at 426, 996 P.2d at 417.³ Accordingly, we

¹Although respondents Togliatti, Masto, and the State of Nevada do not appear in the district court caption transmitted to this court, they were obviously parties to the complaint filed in the lower court as Davis asserted claims against them in the body of the complaint. Therefore, we instruct the clerk of this court to modify the caption in accordance with this order.

²This court has previously held that "[NRCP] 54(b) does not preclude the grant of a final judgment against the only defendant who was served and who made an appearance." *Rae v. All Am. Life & Cas. Co.*, 95 Nev. 920, 922, 605 P.2d 196, 197 (1979). Because there is no indication in the district court's order as to whether the remaining defendants were served, it is unclear whether this court's holding in *Rae* would apply in this instance.

³We note that the district court did not expressly invoke its power pursuant to NRCP 4(i) to dismiss the other defendants on its own initiative nor did the district court provide notice to Davis of its intent to dismiss the other defendants.

ORDER this appeal DISMISSED.

Hardesty, J.
Hardesty

Saitta, J.
Saitta

Pickering, J.
Pickering

cc: Hon. Rob Bare, District Judge
James Anthony Davis
Attorney General/Carson City
Eighth District Court Clerk