IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES MARTIN REESE,
Appellant,
vs.
CAROL N. REESE; AND NYE COUNTY,
Respondents.

No. 70828

FILED

FEB 27 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [signature]
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order setting aside, vacating, and quashing prior orders entered against a non-party in a divorce action.

Based on our review of the documents before us, we conclude that we lack jurisdiction over this appeal. While the procedural history of this matter is convoluted, the record demonstrates that the district court entered a default-based divorce decree in 1999 and, after appellant sought to set aside that decision, a new decree of divorce was entered in 2000 that materially differed from the initial decree. The newly entered 2000 decree did not contain any language setting aside the earlier decree, however, and there is nothing in the record indicating that a written order setting aside the original decree was entered prior to the entry of the new divorce decree. But because the 1999 divorce decree constituted the final judgment in the underlying divorce proceeding, *see Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (explaining "that a final judgment is 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[ ] fees and costs"), the district court lacked jurisdiction to reopen the case and enter a new divorce decree

without first vacating or setting aside the 1999 decree pursuant to the Nevada Rules of Civil Procedure. *See Greene v. Eighth Judicial Dist. Court,* 115 Nev. 391, 395-96, 990 P.2d 184, 186-87 (1999) (explaining that the district court cannot reopen a case once a final judgment is entered unless the "judgment is first set aside or vacated"). And because the district court did not set aside the 1999 decree before entering the 2000 divorce decree, the 2000 divorce decree was rendered void. *See id.*

The record demonstrates that the district court purported to correct this error by entering an order on November 20, 2009, that, while somewhat unclear, can nonetheless be construed as setting aside the 1999 decree. But because this 2009 order was entered after the entry of the void 2000 divorce decree, the 2009 order cannot operate to retroactively resurrect this void decree. *Cf. State ex rel. Friedman v. Eighth Judicial Dist. Court,* 81 Nev. 131, 134, 399 P.2d 632, 634 (1965) (concluding that "[a] restraining order, which is absolutely void, does not become legally effective by simply securing an amended order . . . which purports to cure the fatal defects of the original"). Moreover, there is nothing in the 2009 order that purports to reenter or readopt the void 2000 divorce decree and the record before us does not include any subsequent order reentering or readopting that decree.[1]

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[1]We note that, even if the 2000 divorce decree had been reentered or readopted after the 1999 decree was set aside, it does not appear that this decree would have constituted a final judgment, as the 2000 divorce decree left respondent's child support claim completely unresolved. Indeed, the district court's November 20, 2009, order recognized as much, noting that the 2000 decree was silent as to appellant's child support obligation, and that, aside from what was expressly addressed in the 2000 decree, all other child related issues were deferred until the time of trial.

Under these circumstances, the procedural posture of the underlying case presents a situation where the initial 1999 decree has been set aside and the subsequent 2000 decree was rendered void, with no new decree having been entered or adopted after the 1999 divorce decree was set aside. The net effect of this sequence of events is that there is no longer an effective district court divorce decree—or any other final judgment—in the underlying case. Thus, the order at issue here constitutes an interlocutory decision, and because no statute or court rule declares that a district court order such as the one at issue in this case is independently appealable, *see* NRAP 3A(b) (setting forth the list of appealable determinations), we conclude that we lack jurisdiction to consider this appeal. *See Taylor Constr. Co. v. Hilton Hotels Corp.*, 100 Nev. 207, 209, 678 P.2d 1152, 1153 (1984) ("[W]here no statutory authority to appeal is granted, no right [to appeal] exists."). Accordingly, we

ORDER this appeal DISMISSED.

_______________, C.J.
Silver

_______________, J.
Tao

_______________, J.
Gibbons

cc: Hon. Bryce C. Duckworth, District Judge, Family Court Division
James Martin Reese
Nye County District Attorney
Carol N. Reese
Eighth District Court Clerk