

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN CHARLES GOLDBERG,
Appellant,
vs.
DONNA JO GOLDBERG,
Respondent.

No. 37252

FILED

JUL 25 2002

ORDER DISMISSING APPEAL

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is an appeal from a district court order concerning child support and insurance for the parties' foster children. When our preliminary review of this appeal revealed potential jurisdictional defects, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the district court's order was not substantively appealable because the court had not entered a final order in the divorce proceeding resolving all of the issues. Moreover, we noted that even though the district court attempted, under NRCPC 54(b), to certify this matter as final, the order did not appear amenable to NRCPC 54(b) certification.

The documents before this court reveal that on August 9, 1999, appellant filed a complaint for divorce. Following a hearing in February 2000, appellant was ordered to pay child support and provide insurance for the three minor foster children in respondent's care. Subsequently, appellant moved the district court to eliminate the child support and insurance obligations for the foster children. On December 13, 2000, the district court entered a written order that denied appellant's motion. Further, the court stated that the order "may be certified pursuant to NRCPC 54(b) so long as it does not prohibit further adjudication by the Court of matters [not related] to the support and insurance of the minor children." Appellant timely filed a notice of appeal from the December order. Thereafter, the docketing statement indicates

that the district court apparently entered a written divorce decree on May 9, 2001. A trial was scheduled for August 23, 2001, to resolve the remaining issues concerning spousal support and the division of community property and debt.¹

In response to this court's order to show cause, appellant contends that "child support orders may always be modified[,] [e]ven after all issues are finally resolved." Appellant further asserts that based on statements made by the district court during the November 29, 2000 hearing, the court "made very clear that it was not going to entertain any further motions" involving the child support issue. Consequently, appellant insists that the December order is final and substantively appealable. Moreover, appellant contends that the issue of child support is a "separate and distinct claim" from the issues concerning spousal support and the division of community property and debt. Thus, appellant insists that the order is amenable to NRCP 54(b) certification.

An appeal may be taken from a final written judgment in an action or proceeding commenced in the court in which the judgment is rendered.² A final judgment is one that disposes of the issues presented in the case and leaves nothing for the future consideration of the court except

¹This court has previously disapproved of a district court bifurcating a divorce proceeding. See Gojack v. District Court, 95 Nev. 443, 596 P.2d 237 (1979) (holding that a district court is without jurisdiction to enter a final divorce decree without contemporaneously disposing of the parties' community property); see also Smith v. Smith, 100 Nev. 610, 613 n.1, 691 P.2d 428, 431 n.1 (1984) (noting that "bifurcated divorce proceedings and the problems they are likely to engender are disfavored and should generally be avoided").

²NRAP 3A(b)(1).

for attorney fees and costs.³ Here, the district court has not resolved the issues concerning spousal support and the division of community property and debt. Thus, the December 2000 order is not a final order and is not substantively appealable.

Additionally, the December order is not properly certified under NRCP 54(b)⁴ nor is it amendable to certification.⁵ Under NRCP 54(b), certification of finality is available "[w]hen more than one claim for relief is presented." As we recognized in Hallicrafters Co. v. Moore,⁶ only one claim of relief is present for NRCP 54(b) purposes when the claims at issue arise from one transaction, or one series of related transactions. Even if multiple claims are present, it is an abuse of the district court's discretion to certify an order as final if these claims "are so closely related that this court must necessarily decide important issues pending below in order to decide the issues appealed."⁷ Here, the parties' issues all arise from the marriage relationship between them: the underlying facts of all the issues appear to be the same. Thus, the divorce petition appears to present only one claim for relief under NRCP 54(b). Additionally, the

³See Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000).

⁴See Aldabe v. Evans, 83 Nev. 135, 425 P.2d 598 (1967).

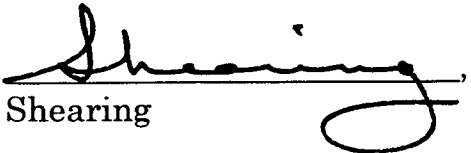
⁵See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984) (stating that certification of finality is not available to provide appellate review of an interlocutory order).


⁶102 Nev. 526, 728 P.2d 441 (1986).


⁷Id. at 528, 728 P.2d at 442; see also Mid-Century Ins. Co. v. Cherubini, 95 Nev. 293, 295, 593 P.2d 1068, 1070 (1979) (stating that "[t]he assertion of one legal right to [insurance] policy proceeds growing out of a single transaction or a series of related transactions states a single claim for relief" for purposes of NRCP 54(b)).

issues remaining below appear closely related to the issues on appeal. Even if multiple claims were present, reviewing the matter at this stage of the proceedings would result in piecemeal litigation, defeating the purpose of NRCP 54(b).⁸

Accordingly, as we lack jurisdiction to consider this appeal, we ORDER this appeal DISMISSED.⁹

 J.
Shearing

 J.
Rose

 J.
Becker

cc: Hon. Robert W. Lueck, District Judge, Family Court Division
Lynn R. Shoen, Settlement Judge
Webster & Kahle
Bell Lukens & Kent
Clark County Clerk

⁸Hallicrafters, 102 Nev. at 528, 728 P.2d at 443.

⁹We deny as moot appellant's February 15, 2002 request for judicial notice of the California Juvenile Court File of Sarah Adams, minor.