


IN THE SUPREME COURT OF THE STATE OF NEVADA

MANUEL A. GUILLEN, AN  
INDIVIDUAL,  
Appellant,  
vs.  
GEORGE ALFER FREGOSO, AN  
INDIVIDUAL,  
Respondent.

No. 85237

FILED

DEC 16 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is an appeal from a district court order denying appellant's motion to dismiss or for summary judgment. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

Initial review of the notice of appeal and documents before this court revealed a potential jurisdictional defect. It did not appear that any statute or court rule allows an appeal from the challenged order. *See Kirsch v. Traber*, 134 Nev. 163, 168, 414 P.3d 818, 822 (2018) (stating that an order denying a motion to dismiss is not appealable); *Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013) (this court "may only consider appeals authorized by statute or court rule"); *Cromer v. Wilson*, 126 Nev. 106, 109, 225 P.3d 788, 790 (2010) ("A district court's order denying summary judgment is an interlocutory decision and is not independently appealable."). Although appellant indicated in the docketing statement that this court has jurisdiction over this appeal because appellant would suffer an injustice if the challenged order is not reviewed on appeal, this court explained that the potential to suffer an injustice does not vest this court with jurisdiction to consider an appeal from an unappealable order. Accordingly, this court ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

In response, appellant contends this appeal should be allowed to proceed under NRAP 17(a)(11) and (12).<sup>1</sup> Appellant also asserts that an injustice would result if this matter is not permitted to proceed, by either appeal or petition.<sup>2</sup> NRAP 17 does not govern this court's jurisdiction to consider an appeal. That rule deals with the division of cases between this court and the Court of Appeals. As previously explained, the potential to suffer an injustice does not vest this court with jurisdiction to consider an appeal from an unappealable order. And an order denying a motion to dismiss or for summary judgment is not a substantively appealable order. *See id.* Accordingly, this court

ORDERS this appeal DISMISSED.

Hardesty, J.  
Hardesty

Stiglich, J.  
Stiglich

Herndon, J.  
Herndon

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<sup>1</sup>Appellant's response is not accompanied by proof of service as required. *See* NRAP 25(d). And appellant did not comply with the notice issued by the clerk of this court directing him to provide proof of service by November 23, 2022. Appellant's counsel is admonished for failing to comply with this court's rules and notice. Future failure to provide proof of service may result in the disregard of the associated filing. *Id.* Nevertheless, in this instance only, this court has considered appellant's response despite his failure to provide proof of service.

<sup>2</sup>It does not appear that appellant has filed a petition for writ relief in this court and this court offers no opinion on the propriety of such relief.

cc: Hon. Adriana Escobar, District Judge  
Patrick N. Chapin, Settlement Judge  
Ranalli Zaniel Fowler & Moran, LLC/Henderson  
Gazda & Tadayon  
Eighth District Court Clerk