

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SEDGWICK CMS,
Appellant,
vs.
WAN WING WONG, AN INDIVIDUAL,
Respondent.

No. 84390-COA

FILED

APR 07 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

Sedgwick CMS (SCMS) appeals from a district court order setting aside a default judgment pursuant to NRCP 60(b) in a tort action. Eighth Judicial District Court, Clark County; Nancy L. Allf, Judge.

When our review of the documents before this court revealed a potential jurisdictional defect, we entered an order directing SCMS to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that this appeal was prematurely filed before the entry of a final, appealable order resolving respondent Wan Wing Wong's motion to set aside the default judgment against her. *See In re Guardianship of Wittler*, 135 Nev. 237, 238, 445 P.3d 852, 854 (2019) (recognizing that temporary orders typically are not appealable). Having considered SCMS's response, we conclude that the challenged order is not a final appealable determination, and we therefore dismiss this appeal.

Here, while the challenged order purports to set aside the default judgment against Wong, it only does so "until the identity issue [raised in respondent's motion to set aside the default judgment] has been clarified" by way of an evidentiary hearing. Thus, by its own language, the challenged order contemplates further proceedings following the

evidentiary hearing, including a potential modification of the order, such that the order cannot be considered a final order resolving Wong's motion to set aside the default judgment. *See Rennels v. Rennels*, 127 Nev. 564, 569, 257 P.3d 396, 399 (2011) (providing that a final order "disposes of the issues presented," leaving "nothing for the future consideration of the court" (internal quotation marks omitted)).


In responding to our show cause order, SCMS fails to address the finality of the challenged order, and instead simply argues that the order is appealable as a special order entered after final judgment. *See* NRAP 3A(b)(8) (listing a special order entered after final judgment as a determination that is generally appealable). However, while the challenged order may qualify as a special order entered after final judgment, *see Vargas v. J. Morales Inc.*, 138 Nev., Adv. Op. 38, 510 P.3d 777, 780 (2022) (holding that an order granting a motion to set aside a default judgment pursuant to NRCP 60(b)(1) that was filed more than 60 days after entry of the underlying judgment was appealable as a special order after final judgment), such an order must nevertheless constitute a final determination on the issue in question for this court to exercise its appellate jurisdiction. *See Pierce v. Ciccarone*, No. 52515, 2008 WL 6124780, at *1 (Nev. Dec. 18, 2008) (Order Dismissing Appeal) (explaining that a temporary order is not appealable even if it otherwise qualifies as a special order entered after final judgment); *see also In re Guardianship of Wittler*, 135 Nev. at 238, 445 P.3d at 854. As a result, SCMS's argument in this regard is without merit.


To the extent that SCMS suggests that this jurisdictional issue is "secondary" and that we may nevertheless consider the merits of the challenged order, its argument is unavailing given that "this court's

appellate jurisdiction is limited” and that “we may only consider appeals authorized by statute or court rule.” *Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013). And because no statute or court rule allows for an appeal from a non-final order that expressly remains subject to modification, this court lacks jurisdiction and we therefore

ORDER this appeal DISMISSED.¹


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Nancy L. Alf, District Judge
Qualey Law Group
Wan Wing Wong
Eighth District Court Clerk

¹Nothing in this order precludes SCMS from filing a new notice of appeal once the district court enters an order finally resolving respondent’s motion to set aside the default judgment against her if SCMS is aggrieved by that decision.