

IN THE SUPREME COURT OF THE STATE OF NEVADA

WARREN SCHANDA,  
Appellant,  
vs.  
STEPHANIE MILLER A/K/A  
STEPHANIE BRIGNONE,  
Respondent.

No. 38074

FILED

AUG 12 2002

ORDER DISMISSING APPEAL

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

This appeal is taken from a judgment that established child custody and visitation. On September 4, 2001, we entered an order reinstating briefing as the parties were unable to agree to a settlement. Pursuant to that order, appellant was required to comply with NRAP 9(a) by September 19, 2001, and file the opening brief and appendix by December 3, 2001. Because appellant had not complied with NRAP 9(a), on December 18, 2001, we entered an order directing appellant to comply with NRAP 9(a) within 10 days from the date of that order. Because appellant still had not complied with NRAP 9(a) or filed the opening brief and appendix, on January 14, 2002, we entered another order directing appellant to comply with NRAP 9(a) within 10 days from the date of that order and file the opening brief and appendix within 15 days from the date of that order. Appellant was cautioned that failure to comply with that order could result in the imposition of sanctions.

Because appellant still had not filed the required documents, on May 7, 2002, we entered an order that directed appellant to comply with NRAP 9(a) and file the opening brief and appendix by May 22, 2002. That order also imposed monetary sanctions in the amount of \$500.00 against appellant's counsel, James R. Rosenberger, and directed Mr.

Rosenberger to pay the sanction and file proof of such payment with this court by May 22, 2002. Appellant was cautioned that failure to comply with the order could result in the imposition of additional sanctions including dismissal of this appeal.

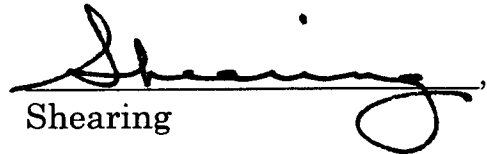
On June 10, 2002, respondent filed a motion to dismiss this appeal for appellant's failure to file the opening brief and appendix. See NRAP 31(c) (if an appellant fails to file an opening brief or appendix within the time provided by this Rule, or within the time extended, a respondent may move for dismissal of the appeal). Appellant has not opposed the motion. We further note that to date appellant has failed to comply with NRAP 9(a), file the opening brief and appendix or otherwise communicate with this court. Accordingly, and cause appearing, we grant respondent's motion and order this appeal dismissed.

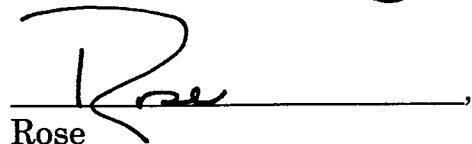
Respondent's June 10, 2002, motion also requests the imposition of sanctions against appellant and the award of attorney fees. See NRAP 38(b) (when circumstances indicate that an appeal has been taken or processed solely for purposes of delay . . . this court may . . . require the offending party to pay as costs on appeal, such attorney fees as it deems appropriate to discourage like conduct in the future). Appellant's failure to file an opening brief and appendix or respond to this court's September 4, 2001, December 18, 2001, January 14, 2002, or May 7, 2002, orders presents the appearance that this appeal may have been taken or processed solely for the purposes of delay. Accordingly, we direct appellant to show cause, within 15 days from the date of this order, why this court should not grant respondent's request for an award of attorney fees pursuant to NRAP 38.

To date, Mr. Rosenberger has failed to pay the \$500.00 sanction imposed against him in our May 7, 2002, order or file proof of such payment with the clerk of this court. Mr. Rosenberger shall have 10 days from the date of this order to pay to the Supreme Court Law Library the \$500.00 sanction imposed against him in the May 7, 2002, order and file proof of such payment with the clerk of this court.

Mr. Rosenberger shall have 15 days from the date of this order to serve appellant with a copy of this order and provide proof of such service to this court. We caution Mr. Rosenberger that failure to comply timely with this order may result in the imposition of additional sanctions including referral to the State Bar of Nevada for investigation.

It is so ORDERED.

  
Shearing, J.

  
Rose, J.

  
Becker, J.

cc: Hon. T. Arthur Ritchie Jr., District Judge, Family Court Division  
Pico & Mitchell  
Douglas C. Crawford  
Clark County Clerk  
Supreme Court Law Librarian