

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN GUMM,

No. 38079

Appellant,

vs.

ALBERTSONS, INC., A DELAWARE
CORPORATION, D/B/A ALBERTSON'S
FOOD CENTER 1664; AND TOP
QUALITY MAINTENANCE, INC., A
NEVADA CORPORATION,

Respondents.

FILED

DEC 04 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *S. Schick*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a post-judgment district court order that, among other things, treated a motion to interplead funds as a motion to adjudicate lien claimants. Our preliminary review of the documents submitted to this court pursuant to NRAP 3(e), and the docketing statement, revealed three potential jurisdictional defects: (1) the designated order did not appear substantively appealable, (2) the NRCP 54(b) certification of the order appeared improper because the district court did not expressly determine that there was no just reason for delay, and (3) the order did not appear amenable to NRCP 54(b) certification because no party or separate claim for relief had been completely removed from the action. Accordingly, we directed appellant to demonstrate that proper jurisdiction exists over this appeal.

In his response, appellant neither addresses the jurisdictional problems noted nor presents any authority in support of establishing jurisdiction. Instead, he essentially asserts that jurisdiction exists because it should. But our jurisdiction, which goes to the very power of this court to act,¹ cannot simply be wished into existence. This court has jurisdiction to consider an appeal only when the appeal is authorized by

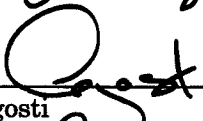
¹See Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987) (stating that jurisdictional rules go to this court's power to act).


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statute or court rule.² No statute or court rule permits an appeal from a post-judgment order electing to treat a motion to interplead funds as a motion to adjudicate lien claimants. The certification of the order as final under NRCP 54(b) was also improper, as it did not satisfy the rule's requirements. Accordingly, as we lack jurisdiction over this appeal, we

ORDER this appeal DISMISSED.³

 J.
Young

 J.
Agosti

 J.
Leavitt

cc: Hon. Nancy M. Saitta, District Judge
Myers & Spretnak
Mainor & Harris
Clark County Clerk

²See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

³We deny as moot appellant's motion to consolidate this appeal with Docket No. 38424.