

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
GUARDIANSHIP OF THE PERSON OF
E. S. F., A MINOR CHILD.

No. 38131

FILED

SEP 09 2002

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

JEFF F. AND VICKY F.,
Appellants,
vs.
HEIDI A.,
Respondent.

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court concerning termination of a guardianship and an award of visitation with the child to respondent, the child's grandmother and former guardian.

In 1998, respondent Heidi A., appellant Vicky F.'s mother, was appointed as guardian of appellants' minor child. In 2000, appellants were granted a divorce. As part of the divorce decree, appellants were awarded joint legal custody of the child, with Vicky having primary physical custody and Jeff having liberal visitation. Apparently, the divorce decree does not mention the guardianship.

Following the divorce, appellants, in a separate proceeding, moved the district court to dissolve the guardianship. During a hearing on the matter, the parties agreed to dissolve the guardianship in exchange for respondent having limited legal custody and visitation with the child. Thereafter, on June 12, 2001, the district court entered an order concerning the termination of the guardianship and visitation. Appellants timely filed an appeal from the June order.

When our preliminary review of the documents submitted to this court, pursuant to NRAP 3(e), revealed a potential jurisdictional defect, we ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the portion of the June order concerning the termination of the guardianship was not substantively appealable, because the order indicates that respondent's guardianship as to the minor child "shall be dissolved upon execution of this document by and [sic] all parties involved and that an order terminating the guardianship of [the child] shall be prepared and filed." Moreover, as to the portion of the district court order that awards respondent limited legal custody and visitation with the child, it appeared that the parties were not aggrieved by the order because they agreed to the visitation arrangement.¹ Thus, it appeared that the June order was not appealable.


In their response to our order to show cause, appellants concede that a final order has not been entered dissolving respondent's guardianship, because appellants refuse to sign the order. Appellants contend that if they sign the order, they will waive their constitutional rights as parents to the care, custody and control of their child. Further, appellants insist that they were under duress when they agreed to visitation between the child and respondent.


An appeal may be taken from a final written judgment in an action or proceeding commenced in the court in which the judgment is

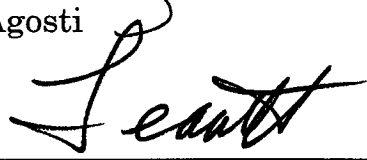
¹See Vinci v. Las Vegas Sands, 115 Nev. 243, 984 P.2d 750 (1999) (providing that when a party stipulates to the entry of an order, that person cannot later attack it as adversely affecting that party's rights).

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 for attorney fees and costs.³ Moreover, only an aggrieved party may file an appeal.⁴ Here, the district court has not dissolved the guardianship. Thus, the June 12, 2001 order is not a final order and is not substantively appealable.

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


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. Robert W. Lueck, District Judge, Family Court Division
Hansen & Hall, LLC/Las Vegas
Carl M. Joerger
Pico & Mitchell
David C. Polley
Clark County Clerk

²NRAP 3A(b)(1).

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

⁴See NRAP 3A(a) (providing that any aggrieved party may appeal from an order); Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 446, 874 P.2d 729, 734 (1994) (holding that a party is aggrieved within the meaning of NRAP 3A(a) when either a personal right or right of property is adversely affected by a court ruling).