

IN THE SUPREME COURT OF THE STATE OF NEVADA


GARY SCHMIDT,
Appellant,
vs.
BOARD OF TRUSTEES OF THE
GERLACH GENERAL IMPROVEMENT
DISTRICT, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA AND JUDY CONLEY A/K/A
SUSAN CONLEY A/K/A SUSAN
CONNLEY,
Respondents.

GARY SCHMIDT,
Appellant,
vs.
BOARD OF TRUSTEES OF THE
GERLACH GENERAL IMPROVEMENT
DISTRICT, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA AND JUDY CONLEY A/K/A
SUSAN CONLEY A/K/A SUSAN
CONNLEY,
Respondents.

✓ No. 88544

FILED

JUN 28 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

No. 88545

ORDER DISMISSING APPEAL IN DOCKET NO. 88544

These are consolidated appeals from a district court order denying a motion for civil penalties (88544) and a district court order denying a motion for attorney fees and costs (88545). Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

This court issued an order on May 28, 2024, directing appellant to show cause why the appeal in Docket No. 88544 should not be dismissed for lack of jurisdiction. *See Brown v. MHC Stagecoach, LLC*, 129 Nev. 343,

345, 301 P.3d 850, 851 (2013). Appellant has filed a response and respondents have filed a reply.

Appellant argues that the plain meaning of NRS 239.340 requires that a party wait until after a final judgment is entered before seeking civil penalties, as civil penalties may only be imposed if the State fails to prevail in the underlying litigation. He argues that therefore an appeal from an order denying a motion seeking civil penalties under NRS 239.340 is a special order entered after a final judgment that is appealable under NRAP 3A(b)(8). Respondents argue that the order does not affect the rights of the parties in the action arising from the final judgment, and that therefore the order is not a special order appealable under NRAP 3A(b)(8).

A special order appealable under NRAP 3A(b)(8) “must be an order affecting the rights of some party to the action, growing out of the judgment previously entered.” *Gumm v. Mainor*, 118 Nev. 912, 920, 59 P.3d 1220, 1225 (2002). It must be an order affecting rights incorporated in the judgment. *Id.* Here, in the underlying action, appellant filed a petition for a writ of mandamus¹ seeking to compel the Gerlach General Improvement District (GGID) to release personal contact information for GGID’s customers. The district court granted the petition in part, finding that appellant was only entitled to the names and mailing addresses of GGID’s customers. Appellant subsequently filed his motion for civil damages, which was denied. This denial did not affect any of the rights of appellant or GGID arising out of the judgment previously entered, granting in part the petition for a writ of mandamus. Therefore, this is not a special order

¹Although the motion was titled “Amended Ex-Parte Petition/Application for Order” the district court appears to have treated it as a petition for a writ of mandamus and we do so here as well.

appealable under NRAP 3A(b)(8). Accordingly, we conclude that we lack jurisdiction to consider the appeal in Docket No. 88544 and we,

ORDER this appeal DISMISSED.²

Stiglich, J.
Stiglich

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

cc: Hon. Egan K. Walker, District Judge
Debbie Leonard, Settlement Judge
Luke A. Busby
Schroeder Law Offices, P.C.
Washoe District Court Clerk

²The opening brief and appendix for Docket No. 88545 remain due on August 12, 2024.