

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
GUARDIANSHIP OF THE PERSON
AND ESTATE OF D. R. G.

DWIGHT G.,
Appellant,

vs.

CONNIE E. P.,
Respondent.

IN THE MATTER OF THE
GUARDIANSHIP OF THE PERSON
AND ESTATE OF D. R. G.

DWIGHT G.,
Appellant,

vs.

CONNIE E. P.,
Respondent.

No. 38232

FILED

JUN 10 2002

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

No. 38575

ORDER DISMISSING APPEAL IN DOCKET NO. 38232 AND
ALLOWING APPEAL IN DOCKET NO. 38575 TO PROCEED

These are appeals from district court orders concerning the appointment of a guardian for the minor child. Our preliminary review of this matter revealed two potential jurisdictional defects. Accordingly, we ordered appellant to show cause why the appeals should not be dismissed for lack of jurisdiction. Appellant filed a response.

In Docket No. 38232, it appeared that the June 26, 2001 order, designated in the notice of appeal, was not substantively appealable

because it was a temporary order. This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule.¹ An appeal may be taken from a final judgment in an action or proceeding commenced in the court in which the judgment is 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

In his response, appellant contends that the district court entered a temporary order appointing a guardian on May 31, 2001,⁴ and thus, the June order is a final order as it named respondent as the child's general guardian. The June 26, 2001 order indicated, however, that additional evidentiary issues concerning the guardianship would be resolved at an evidentiary hearing. That evidentiary hearing was held, and the district court signed an order concerning the guardianship on September 18, 2001. Thus, we conclude that the June 26, 2001 order concerning the appointment of a guardian was a temporary order, and is

¹See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

²NRAP 3A(b)(1).

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

⁴The documents before this court show that the May 31, 2001 order referred to by appellant, was signed by the judge on May 31, 2001, and filed in the district court on June 4, 2001.

not appealable because it was subject to review and modification by the district court.⁵ Accordingly, as we lack jurisdiction in Docket No. 38232, we order the appeal dismissed.

In Docket No. 38575, it appeared that appellant's notice of appeal as to the September 18, 2001 order was prematurely filed because the order did not include the district court clerk's file stamp. A notice of appeal filed before the entry of a formal written order is of no effect, and fails to confer jurisdiction on this court.⁶ An order is not entered within the meaning of NRAP 4(a) until it is signed by the judge and filed with the clerk.⁷ Appellant contends that the September order was properly entered by the court clerk. In particular, appellant points out that the order was attached to the master's written recommendation and the first page of the recommendation was stamped by the clerk. Having considered appellant's response, we agree that the order was entered and conclude that the appeal in Docket No. 38575 should proceed.

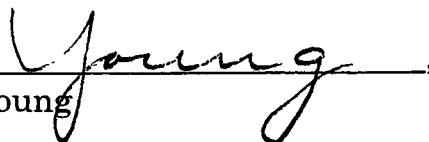
⁵See In re Temporary Custody of Five Minors, 105 Nev. 441, 777 P.2d 901 (1989) (holding that no appeal may be taken from a temporary order subject to periodic mandatory review); Sugarman Co. v. Morse Bros., 50 Nev. 191, 255 P. 1010 (1927) (indicating that no appeal may be taken from a temporary restraining order); see also NRAP 3A (b)(2).

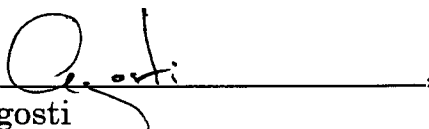
⁶See NRAP 4(a)(1); Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987).

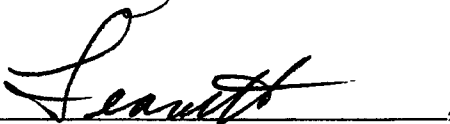
⁷NRAP 4(a)(3).

We note that on May 13, 2002, appellant moved this court to extend the time in which to file the opening brief. The motion was granted on May 15, 2002, and appellant was ordered to file and serve the opening brief and appendix by June 12, 2002. In light of our conclusion today, appellant shall have thirty days from the date of this order to file and serve the opening brief and appendix in Docket No. 38575. Thereafter, the briefing schedule shall proceed in accordance with NRAP 31(a)(2).

It is so ORDERED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. William O. Voy, District Judge, Family Court Division
Aubrey Goldberg, Settlement Judge
Mark A. Jenkin
Gifford, Vernon & Barker
Clark County Clerk