


IN THE SUPREME COURT OF THE STATE OF NEVADA

LISA JEANNE MESSING F/K/A LISA
JEANNE CUNNING,
Appellant,
vs.
CHARLES CUNNING,
Respondent.

No. 89716

FILED

MAR 10 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from a district court order entered in a divorce action. Eighth Judicial District Court, Family Division, Clark County; Regina M. McConnell, Judge.

Lisa Messing and Charles Chris Cunning (Chris) were divorced in 2021. Lisa appealed from the decree and supplemental decree of divorce, an award of attorney fees, and other post-judgment orders. The Court of Appeals affirmed the district court's orders except that it reversed "the portion of the supplemental decree of divorce providing Chris an additional \$3,500 reimbursement for the two 2000 Honda XRs awarded to him in the divorce decree" and reinstated "the original \$115,620 awarded in the initial divorce decree." *Cunning v. Cunning*, Docket No. 84255-COA (Order Affirming in Part and Reversing in Part, May 3, 2024). Once appellate proceedings concluded, on October 24, 2024, the district court entered an "Order After Partial Reversal" describing the Court of Appeals' order and directing that "the total separate property reimbursement that [Chris] is entitled to is \$115,620.00, as ordered in the initial findings of Fact, Conclusions of Law & Decree of Divorce . . .". The district court ordered that "all prior orders, not modified by this Order" remained in effect.

Lisa appeals from the October 24, 2024, district court order. Chris moves to dismiss the appeal on the basis that the October 24 order is not appealable. He contends Lisa does not identify any appealable issues and improperly seeks reconsideration of issues raised in the prior appeal and discussed in the Court of Appeals' order. Lisa asserts the October 24 order is appealable as a final judgment under NRAP 3A(b)(1). She indicates the purpose of this appeal is to prevent the closure of the district court case and allow modification of the district court orders, apparently pursuant to NRCP 60(b) and NRCP 59.

The substantive appealability of a district court order is not determined by the issues an appellant raises or seeks to raise on appeal. Instead, an order is appealable if an appeal is authorized by statute or court rule. *Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013) (this court “may only consider appeals authorized by statute or court rule”).

In this case, it appears the October 24 district court order is substantively appealable as a special order after final judgment pursuant to NRAP 3A(b)(8). The decree of divorce was the final judgment in this matter.¹ See *Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (“[A] final judgment is one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorney’s fees and costs.”). The supplemental divorce decree was a special order after final judgment because it modified

¹As there may only be one final judgment in an action, *Alper v. Posin*, 77 Nev. 328, 331, 363 P.2d 502, 503 (1961), *overruled on other grounds by Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000), the October 24 order is not appealable as a second final judgment.

the division of property between the parties and increased the amount of Chris's separate property reimbursement. *See Gumm v. Mainor*, 118 Nev. 912, 914, 59 P.3d 1220, 1221 (2002) (an appealable special order "after final judgment must be an order affecting the rights of some party to the action, growing out of the judgment previously entered"). The October 24 order is also a special order after final judgment in so far as it again modifies the amount of Chris's separate property reimbursement. To the extent the order directs that "all prior orders, not modified by this Order" remain in effect, and that the case is closed, it is not appealable. *See Campos-Garcia v. Johnson*, 130 Nev. 610, 612, 331 P.3d 890, 891 (2014) (explaining that when the district court enters an appealable order, then enters a judgment on the same issue, the judgment is superfluous and unappealable); *Brown*, 129 Nev. at 345, 301 P.3d at 851 (holding that a form order closing a case is not appealable).

Even to the extent the order is substantively appealable, however, Lisa lacks standing to appeal. Only a party aggrieved by an order has standing to appeal from that order. NRAP 3A(a). Lisa is not aggrieved by the appealable portion of the October 24 order decreasing the amount of money awarded to Chris. *See Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 446, 874 P.2d 729, 734 (1994) (providing that a party is aggrieved within the meaning of NRAP 3A(a) when a district court's order adversely and substantially affects the party's personal right or a right of property). Lisa is arguably aggrieved by the October 24 order to the extent she contends it does not comply with the directive of the Court of Appeals in its May 3, 2024, order. *See generally, e.g., Wheeler Springs Plaza, LLC v. Beemon*, 119 Nev. 260, 263–64, 71 P.3d 1258, 1260 (2003) (deciding on appeal whether a district court order entered after remand

complied with the mandate on remand). But Lisa makes no such argument in her docketing statement or response to the motion to dismiss. Under these circumstances, we conclude Lisa lacks standing to appeal and we

ORDER this appeal DISMISSED.²

Pickering, J.
Pickering

Cadish, J.
Cadish

Lee, J.
Lee

cc: Hon. Regina M. McConnell, District Judge, Family Division
Lisa Jeanne Messing
Kelleher & Kelleher, LLC
Eighth District Court Clerk

²Given this dismissal, we make no determination regarding Lisa's substantive claims. Chris's request for an award of attorney fees and costs pursuant to NRAP 38 is denied.