

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEENA LEIBOWITZ, N/K/A DEENA
COOPERMAN,

Appellant/Cross-
Respondent,

vs.

STEVEN LEIBOWITZ,

Respondent/Cross-
Appellant.

No. 38324

FILED

APR 17 2003

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

ORDER DISMISSING APPEAL AND CROSS-APPEAL
AND ORDER TO SHOW CAUSE

On November 21, 2001, this court entered an order reinstating briefing after the parties were unable to agree to a settlement. Because this appeal involves child custody issues, appellant/cross-respondent (appellant) was directed to file her opening brief and appendix by February 19, 2002. See NRAP 31(a)(2). On March 1, 2002, this court entered an order granting appellant an extension of time until April 22, 2002, to file the opening brief and appendix. On June 21, 2002, this court entered an order denying appellant's motion for another extension of time to file the opening brief and appendix and directed appellant to file the necessary documents by July 8, 2002. Because appellant had not yet filed the opening brief and appendix, on August 13, 2002, this court entered an order directing appellant to file the necessary documents within 10 days.

On August 30, 2002, respondent/cross-appellant (respondent) filed a motion requesting this court to dismiss appellant's appeal and

informing the court that he would voluntarily dismiss his cross-appeal if this court granted the motion to dismiss. Appellant opposed the motion stating that the parties had agreed to a settlement of all issues and requesting this court to set a deadline for the parties to file their stipulation to dismiss this appeal and cross-appeal. Based on appellant's representation, this court denied respondent's motion to dismiss and directed the parties to file a stipulation to dismiss this appeal and cross-appeal by December 2, 2002. We cautioned the parties that failure to comply timely with that order could result in the dismissal of this appeal and cross-appeal as abandoned.


On December 2, 2002, respondent filed a response to our November 8, 2002, order. Respondent states that the parties have never reached a settlement of the issues on appeal. Respondent also renewed his motion to dismiss. On March 4, 2003, respondent filed a second motion to dismiss appellant's appeal for appellant's failure to comply with orders of this court and failure to file the opening brief and appendix.

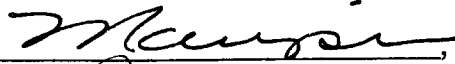
To date appellant has not filed the opening brief and appendix. Additionally, appellant has not opposed respondent's motions to dismiss or otherwise communicated with this court. We conclude that appellant's failure to prosecute this appeal warrants dismissal. Accordingly, we grant respondent's motions and dismiss appellant's appeal.¹ Because respondent's March 4, 2003, motion again states that he


¹We deny, as moot, respondent's April 2, 2003, request for submission of his March 4, 2003, motion.

is willing to dismiss his cross-appeal if appellant's appeal is dismissed, we also dismiss respondent's cross-appeal. Further, because it appears that appellant may have taken this appeal solely for the purpose of delay, appellant shall have 20 days from the date of this order to show cause why this court should not award respondent attorney fees pursuant to NRAP 38(b).

It is so ORDERED.²


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. William O. Voy, District Judge, Family Court Division
Dickerson, Dickerson, Consul & Pocker
Ecker & Standish
Lemons Grundy & Eisenberg
Clark County Clerk

²We deny, as moot, respondent's December 13, 2001, motion to remand.