

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS A. NICOLosi, AN ADULT
INDIVIDUAL,
Appellant,
vs.
PROTECTIVE FORCE
INTERNATIONAL, LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Respondent.

No. 90445

FILED

JAN 12 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a February 21, 2025, district court order granting summary judgment to respondent on appellant's claims. Eighth Judicial District Court, Clark County; Danielle K. Pieper, Judge.

When this court's initial review of the notice of appeal and docketing statement revealed a potential jurisdictional defect, we directed appellant to show cause why the appeal should not be dismissed for lack of jurisdiction. In particular, it appeared that the district court had not entered a final appealable judgment, as respondent's counterclaims remained pending and the February 21 summary judgment had not been certified as final pursuant to NRCP 54(b). See NRAP 3A(b)(1) (providing for an appeal from "a final judgment entered in an action"); *Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (providing that a final judgment is one that adjudicates all of the rights and liabilities of all of the parties, except for certain post-judgment issues).

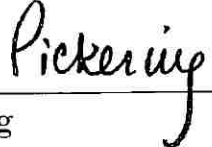
In response, appellant acknowledges that the counterclaims remain pending and asserts that he moved for NRCP 54(b) certification, but the district court denied it, misapplying the certification standard and thereby abusing its discretion. Appellant asks this court to allow for

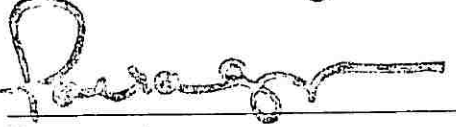
appellate review of the July 14 order denying certification before dismissing the appeal from the February 21 order. Appellant has filed a supplemental notice of appeal from the court's July 14, 2025, order denying his motion to certify the February 21 order as final under NRCP 54(b). Respondent opposes appellant's request and contends that the appeal should be dismissed, as the February 21 order is not appealable and not amenable to certification because claims between the parties remain pending. Respondent further asks that \$5,000 in sanctions be imposed on appellant for filing and maintaining a frivolous appeal.

As no party disputes, the district court has not entered a final judgment, and thus, this court lacks jurisdiction absent a proper NRCP 54(b) certification. Here, the district court denied certification, and despite appellant's contention to the contrary, that decision is not subject to this court's review on interlocutory appeal. See NRAP 3A (listing appealable orders, not including an order denying NRCP 54(b) certification); *see also Barbara Ann Hollier Tr. v. Shack*, 131 Nev. 582, 589, 356 P.3d 1085, 1089 (2015) (recognizing that caselaw interpreting analogous federal rules, including FRCP 54(b), are persuasive); *Makuc v. Am. Honda Motor Co.*, 692 F.2d 172 (1st Cir. 1982) (determining that an order denying FRCP 54(b) relief is not appealable); *Middleby Corp. v. Hussmann Corp.*, 962 F.2d 614, 616 (7th Cir. 1992) (refusing to compel the district court to enter a final partial judgment under FRCP 54(b), as "[a]ppellate courts may not create jurisdiction by entering judgments on behalf of the district courts and then reviewing those judgments"); *McCall v. Deeds*, 849 F.2d 1259 (9th Cir. 1988) ("[T]he denial of Rule 54(b) certification is not appealable."); 15A Charles Allen Wright & Arthur Miller, *Fed. Prac. & Proc.: Jurisdiction* § 3914.7.3 (3d ed. 2005) ("[R]efusal to enter a Rule 54(b) judgment cannot itself be

appealed"). Accordingly, we lack jurisdiction over both the February 21 and the July 14 orders, and we thus

ORDER this appeal DISMISSED.¹


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Bell

cc: Hon. Danielle K. Pieper, District Judge
Michelle L. Morgando, Settlement Judge
Law Offices of Mont E. Tanner
Nehme-Tomalka & Associates
Eighth District Court Clerk

¹Although appellant improperly appealed from the February 21 order before seeking and obtaining NRCP 54(b) certification and then, rather than dismissing the appeal upon denial of certification, filed a supplemental appeal, it does not appear that the question of jurisdiction over an order denying NRCP 54(b) certification has been previously addressed by this court. Given this, and as no merits briefing has occurred in this case, we decline to sanction appellant for filing a frivolous appeal under NRAP 38.