

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
GUARDIANSHIP OF THE PERSON
AND ESTATE OF SHARON
GIBELLINI.

MARJORIE HAMMOND,
Appellant,
vs.
IONE JACKMAN,
Respondent.

No. 39666

FILED

JAN 08 2004

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

ORDER DISMISSING APPEAL

This is an appeal from an order denying a petition to remove a guardian. When our preliminary review of this appeal revealed a potential jurisdictional defect, we directed appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the order designated in the notice of appeal was not substantively appealable. This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule.¹ Here, the order is not a final judgment because it did not terminate the

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

guardianship proceeding.² Additionally, the order is not otherwise appealable under the guardianship statutes contained in NRS chapter 159.³

In response to our show cause order, appellant contends that she filed in the district court a petition to remove respondent as Sharon Gibellini's guardian and be appointed as guardian in respondent's place. Appellant argues that the district court's order denying her petition was a final order as to her, because the district court decided the guardianship issue as to her and she is no longer allowed to participate in the case. We reject appellant's argument. The district court's order was not a final judgment because it merely resolved one issue in the entire guardianship proceeding.


In the alternative to dismissing this appeal, appellant requests that we construe this appeal as a petition for a writ of mandamus. In light of the different procedural posture and the standards of review between appeals and writ petitions, we decline to construe this appeal as a writ petition. Accordingly, we dismiss this appeal without


²See NRAP 3A(b)(1) (providing that an appeal may be taken from a final judgment in an action or proceeding).

³The 2003 amendments to NRS chapter 159, which now allow appeals from certain guardianship orders, do not apply to proceedings commenced before October 1, 2003. See 2003 Nev. Stat., ch. 322, § 47 at 1769, § 120 at 1803.

prejudice to appellant's right to file a writ petition in this court challenging the district court's order.⁴

It is so ORDERED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Dan L. Papez, District Judge
Carolyn Worrell, Settlement Judge
Martin G. Crowley
Rusty D. Jardine
Law Offices of Gary D. Fairman
Marvel & Kump, Ltd.
Eureka County Clerk

⁴As this is a final order in this appeal, any writ petition will be docketed as a new matter in this court. Further, in light of our decision to dismiss this appeal, we deny as moot appellant's motion to expedite. However, any new writ petition will be expedited to the extent that this court's docket permits.