

IN THE SUPREME COURT OF THE STATE OF NEVADA

CAVALRY INVESTMENTS, LLC, A  
LIMITED LIABILITY COMPANY, AS  
ASSIGNEE OF ARCADIA FINANCIAL,  
Appellant,  
vs.  
ROBERT T. BREEDEN,  
Respondent.

No. 40607

FILED

APR 07 2003

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

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying appellant's motion to renew its writ of execution. We conclude that we lack jurisdiction, however, and must dismiss this appeal.

In August 2001, Cavalry Investments, LLC, obtained a \$16,628.41 default judgment against Robert Breeden. In September 2001, the district court clerk issued a writ of execution.<sup>1</sup> More than one year later, in October 2002, Cavalry moved to "Renew Plaintiff's Execution and Garnishment" because the sheriff had not returned the writ. On November 4, 2002, the district court entered its order denying Cavalry's motion. On December 5, 2002, Cavalry filed its notice of appeal. In its docketing statement, Cavalry asserts that it is appealing from a special

---

<sup>1</sup>The writ is not included or fully described in the documents before the court. The case history describes the court action as: issuing execution (Carson City).

order made after final judgment.<sup>2</sup> We conclude that Cavalry is not aggrieved by the order denying its motion to renew the writ,<sup>3</sup> because the writ remains viable, and that the order is not an appealable special order made after final judgment.<sup>4</sup>

Cavalry uses the terms execution and garnishment interchangeably, and these processes are both judgment collection aids, but they are governed by slightly different rules and procedures.

NRS chapter 21 governs writs of execution. Under NRS 21.010, a party with a judgment may obtain a writ of execution for its enforcement at any time before the judgment expires, but the writ ceases to be effective when the judgment expires. NRS 21.040 specifies that “[t]he execution shall be returnable to the clerk with whom the judgment roll is filed not less than 10 nor more than 60 days after its receipt by the sheriff.” NRS 21.070 permits the issuance of “executions” “at the same

---

<sup>2</sup>Because our preliminary jurisdictional review revealed potential jurisdictional defects if the writ of execution remains viable, we ordered appellant to demonstrate jurisdiction. Appellant timely responded.

<sup>3</sup>See NRAP 3A(a); Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 874 P.2d 729 (1994) (noting that only aggrieved parties may appeal, and that a party is aggrieved under NRAP 3A(a) only when a personal or property right is adversely and substantially affected by the district court’s order).

<sup>4</sup>See Gumm v. Mainor, 118 Nev. \_\_\_, 59 P.3d 1220 (2002) (clarifying that a special order made after final judgment, to be appealable under NRAP 3A(b)(2), must affect a party’s rights growing out of and incorporated in the judgment); Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984) (noting that this court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule).

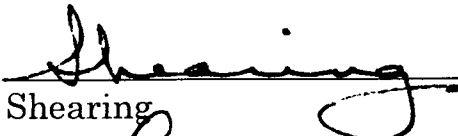
time to different counties” when the debtor has property in more than one county, but no other statute permits multiple executions. NRS 21.120 provides that the sheriff to whom the writ of execution is addressed, upon instructions from the creditor and without requiring a court order, shall serve a writ of garnishment in aid of execution upon any third party controlling or possessing the debtor’s personal property.


NRS chapter 31 governs writs of garnishment, which are usually issued in aid of attachment. Writs of garnishment in aid of attachment require a court order, but under NRS 31.450, any person with an unsatisfied judgment, upon which execution has been issued and delivered, and which remains in the hands of the proper officer uncollected and unsatisfied, may obtain a writ of garnishment without application to the court. Under NRS 31.296(1), the statute Cavalry cites as authority for its contention that the district court’s writ of execution is no longer viable, a writ of garnishment served on the debtor’s employer is deemed to continue for 120 days unless the amount demanded in the writ is satisfied earlier. But the 120-day limitation on the writ of garnishment apparently only applies when earnings are being garnished, since statutes governing garnishment of other types of property do not contain any limitation.


From the foregoing and the documents before the court, it appears that the writ of execution issued by the court clerk in this case is viable and will remain viable until Cavalry’s judgment expires. Therefore, Cavalry is not aggrieved by the district court’s denial of its motion to renew the writ because the writ is still effective. In addition, it appears that the order denying Cavalry’s motion to renew the writ is not an appealable special order made after final judgment because it does not affect any party’s rights growing out of and incorporated in the judgment.

Cavalry has its judgment and its writ of execution, and if necessary it can institute a writ proceeding to compel the sheriff to serve and return the writ of execution and any writ of garnishment that may have been issued in aid of execution. Accordingly, as we lack jurisdiction, we

ORDER this appeal DISMISSED.

 J.  
Shearing

 J.  
Leavitt

 J.  
Becker

cc: Hon. Michael R. Griffin, District Judge  
Blalock & Associates  
Robert T. Breeden  
Carson City Clerk