

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY BALDWIN, AN INDIVIDUAL,
Appellant,

vs.

CHARLENE SCHUNEMAN, AN
INDIVIDUAL,
Respondent.

GARY G. BALDWIN,
Appellant,

vs.

CHARLENE A. SCHUNEMAN,
Respondent.

No. 40633

FILED

DEC 05 2003

No. 41247

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

ORDER DISMISSING APPEAL IN DOCKET NO. 40633

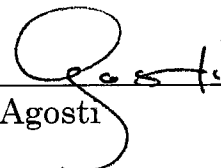
These are consolidated appeals from an order approving the partition and sale of real property and an order setting the date of sale (No. 40633), and from a final judgment distributing the sales proceeds and awarding attorney fees (No. 41247). When our preliminary review of the docketing statement and the NRAP 3(e) documents revealed a potential jurisdictional defect in the appeal docketed as No. 40633, we ordered appellant, on September 22, 2003, to show cause why the appeal should not be dismissed for lack of jurisdiction. We were concerned that the notice of appeal was untimely filed and designates a non-appealable order. We noted that, on April 23, 2002, the district court entered its order partitioning the real property and ordering its sale, with the proceeds to be held pending trial. Notice of the order's entry was served by fax the following day, and although the order was interlocutorily appealable,¹ the

¹See NRAP 3A(b)(3).

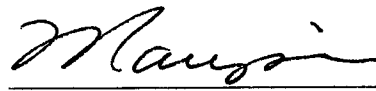
notice of appeal was not filed within the thirty-day window.² Instead, appellant filed the notice of appeal on December 6, 2002, eighteen days after appellant was given notice of the district court's order setting a date for the real property's sale. This scheduling order, designated in the notice of appeal along with the earlier partition and sale order, does not appear to be substantively appealable.³

Appellant has not responded to our show cause order. We conclude, then, that this court lacks jurisdiction over the appeal in Docket No. 40633. Accordingly, we

ORDER the appeal in Docket No. 40633 DISMISSED.


_____, C.J.
Agosti


_____, J.
Rose


_____, J.
Maupin

²See NRAP 4(a); Rust v. Clark Cty. School District, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987) (observing that “the proper and timely filing of a notice of appeal is jurisdictional”).

³See NRAP 3A(b); Pengilly v. Rancho Santa Fe Homeowners, 116 Nev. 646, 649, 5 P.3d 569, 571 (2000) (stating that, “unless permitted by rule or statute, no appeal may be taken”).

cc: Hon. Nancy M. Saitta, District Judge
Leonard I. Gang, Settlement Judge
William L. McGimsey
Michael R. Pontoni
Clark County Clerk