

IN THE SUPREME COURT OF THE STATE OF NEVADA

L. D. ALBERTY, TRUSTEE OF THE
L.D. ALBERTY REVOCABLE LIVING
TRUST DATED MAY 14, 1998,
Appellant,
vs.
SWT&E, INC., D/B/A SOUTHWEST
ESCROW COMPANY,
Respondent.

No. 42083

FILED

JUN 11 2004

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an amended judgment and a subsequent order granting respondent costs and attorney fees in a breach of contract action. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

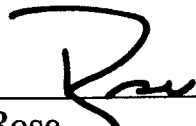
When our preliminary review of the docketing statement and the NRAP 3(e) documents revealed a potential jurisdictional defect, we ordered appellant, on March 31, 2004, to show cause within thirty days why this appeal should not be dismissed. We were concerned that the district court had not entered a final written judgment adjudicating all the rights and liabilities of defendants Cayo Credit Corporation and Cynthia Regas.¹ In our show cause order, we noted that, although Cayo and Regas were defaulted, no default judgment had been entered, and that the mere entry of default does not confer finality for purposes of appellate


¹See Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).


jurisdiction.² We further noted that appellant might be able to cure the perceived jurisdictional defect by obtaining a written order resolving the rights and liabilities of Cayo and Regas and then filing a timely amended notice of appeal. To this date, however, appellant has not responded to our show cause order.

Accordingly, we conclude that this court lacks jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.

 _____ J.
Rose

 _____ J.
Maupin

 _____ J.
Douglas

cc: Hon. Valerie Adair, District Judge
Kathleen L. England, Settlement Judge
William L. McGimsey
Sylvester & Polednak, Ltd.
Clark County Clerk

²See Looper v. Looper, 277 S.E.2d 78, 79 (N.C. Ct. App. 1981) (stating that “[t]he entry of default by the clerk is not a final judgment and it is not appealable” because “[i]t is an interlocutory act looking toward the subsequent entry of a final judgment by default”); Lee v. Sage Creek Refining Co., Inc., 876 P.2d 997, 998 (Wyo. 1994) (stating that “[a]n entry of default is not a final disposition of the controversy” as “[i]t is simply a clerical act performed by the clerk of court which determines liability but not relief”).