

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHINICHI OGAWA,
Appellant,
vs.
YOKO OGAWA,
Respondent.

No. 48108

FILED

JAN 11 2007

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

ORDER DISMISSING APPEAL

This is an appeal from a temporary order regarding child custody.¹ Eighth Judicial District Court, Family Court Division, Clark County; Cheryl B. Moss, Judge.

When our preliminary review of the documents before this court indicated that the order appealed from may not be substantively appealable,² we directed appellant to show cause why this court has jurisdiction. Appellant has filed a response.

This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule.³ An appeal may be taken

¹In light of this order, we deny as moot respondent's November 1, 2006 motion to dismiss the appeal, appellant's November 15, 2006 countermotion to strike all district court findings entered after the appeal was filed, and respondent's November 20, 2006 reply to appellant's response.

²NRAP 3A(b).

³See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

from a final judgment in an action or proceeding commenced in the court in which the judgment is rendered, or from an order that finally establishes or alters child custody.⁴

Here, the district court's March 29, 2005 order awarded temporary custody and stated that the court had jurisdiction to "enter orders relative to the immediate return of the minor children and also awarding temporary custody pending further order of the court."⁵ The district court docket entries also reveal that after the March order, appellant filed a motion in the district court to change the "temporary" custody arrangement.

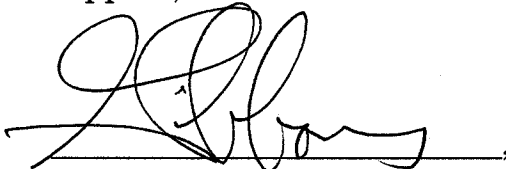
Appellant concedes that the order is temporary, but insists that because he is challenging subject matter jurisdiction, he may appeal at any time. Contrary to appellant's assertion, while he may challenge on appeal whether the district court had subject matter jurisdiction, this court must nonetheless have jurisdiction to consider the appeal. And as explained above, this court has no jurisdiction to consider a temporary child custody order. Once the district court enters a written order

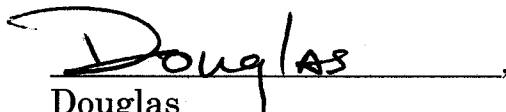
⁴NRAP 3A(b)(1) and (2); Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000) (providing that a final judgment is one that disposes of the issues presented in the case and leaves nothing for the future consideration of the court, except for attorney fees and costs).

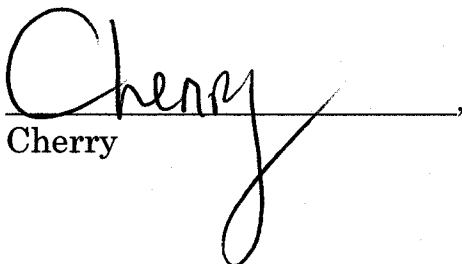
⁵See In re Temporary Custody of Five Minors, 105 Nev. 441, 777 P.2d 901 (1989) (holding that no appeal may be taken from a temporary order subject to periodic mandatory review).

resolving the custody issues, appellant may appeal if he is aggrieved.⁶
Since we lack jurisdiction to consider this appeal, we dismiss it.

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Cheryl B. Moss, District Judge, Family Court Division
Lansford W. Levitt, Settlement Judge
McFarling Law Group
Xavier Gonzales
Clark County Clerk

⁶See NRAP 3A(a); NRAP 4(a). We note that on December 28, 2006, appellant filed an appeal (Docket No. 48571) from a default divorce decree entered in the district court on November 22, 2006.