

IN THE SUPREME COURT OF THE STATE OF NEVADA

SANDRA MURPHY,
Appellant,
vs.
ESTATE OF LONNIE BINION,
Respondent.

No. 50680

FILED

JAN 07 2009

TRAZIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court dismissing three separate actions, entered in consolidated cases. Our preliminary review of the docketing statement and the documents submitted to the court pursuant to NRAP 3(e) revealed a potential jurisdictional defect. Specifically, it appeared that claims remained pending in one of the consolidated cases below (A532044). Accordingly, on May 13, 2008, this court entered an order directing appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

Appellant has filed a motion for a third extension of time to file her response to our order to show cause. Cause appearing, the motion is granted. NRAP 26(b). The clerk shall file appellant's response to order to show cause, received on October 21, 2008.

In her response, appellant implicitly acknowledges that no final judgment has been entered in the consolidated cases below, but explains that the district court has certified its November 5, 2007, order as final pursuant to NRCP 54(b), and asks that this appeal be allowed to proceed.

A written order that is not final may be certified as a final judgment under NRCP 54(b) if it (1) completely removes a party from the

action, (2) the district court determines that there is no just reason for delay, and (3) the certification is not an abuse of discretion.

In the matter below, case number A403340 was consolidated with case numbers A532044, P040663 and A409766. When cases have been consolidated in the district court, they become one case for all appellate purposes. Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990). Therefore, all claims against all parties in the consolidated action must be resolved before the action becomes appealable as a final judgment. Id. On November 5, 2007, the district court entered an order dismissing case numbers A403340, P040663 and A409766. However, it does not appear that any order has been entered disposing of appellant's claims in case number A532044.

Because appellant's claims in case number A532044 remain pending below, she has not been completely removed from the underlying action. Further, the district court's certification order does not make a determination that there is no just reason for delay. Thus, the district court's NRCP 54(b) certification appears to be improper. Further, as appellant cannot be completely removed from the underlying action until such time as case number A532044 is disposed of by the district court, it does not appear that the district court can properly certify case numbers A403340, P040663 and A409766 as final under NRCP 54(b).

As the district court has not yet entered a final appealable judgment and the NRCP 54(b) certification was improper, this court lacks jurisdiction over this appeal. Accordingly, this appeal is dismissed.¹ This

¹In light of this order, Court Reporter Bill Nelson's motion for an extension of time to file the transcript requested of him is denied as moot.

dismissal is without prejudice to any aggrieved party's right to file a notice of appeal from the final judgment of the district court.

It is so ORDERED.

Hardesty, C.J.
Hardesty

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Chief Judge, Eighth Judicial District
Hon. Norman C. Robison, Senior Judge
Carolyn Worrell, Settlement Judge
Joseph S. Sciscento
Kummer Kaempfer Bonner Renshaw & Ferrario/Las Vegas
Eighth District Court Clerk
Bill Nelson, Court Reporter