

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE TRUST OF  
PAUL D. BURGAUER REVOCABLE  
LIVING TRUST.

No. 76650-COA

PAUL D. BURGAUER MARITAL  
TRUST; AND STEVEN BURGAUER,  
TRUSTEE OF THE PAUL D.  
BURGAUER MARITAL TRUST,  
Appellants,  
vs.  
MARGARET BURGAUER,  
Respondent.

**FILED**

APR 23 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This appeal arises from a district court order denying a petition to dismiss, confirming a trustee, and assuming jurisdiction over a trust and trustee. Eighth Judicial District Court, Family Court Division, Clark County; William S. Potter, Judge.

Before addressing the appeal on the merits, we first address respondent Margaret Burgauer's motion to dismiss the appeal based on this court's alleged lack of jurisdiction under NRS 155.190(1)(h).<sup>1</sup> Appellant, Steven Burgauer, as trustee of the Paul D. Burgauer Marital Trust, has filed an opposition to the motion and Margaret has replied. Having considered these filings, we agree with Margaret.

NRS 155.190(1)(h) provides that "an appeal may be taken to the appellate court of competent jurisdiction . . . within 30 days after the notice of entry of an order . . . [i]nstructing or appointing a trustee." The Nevada

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<sup>1</sup>Respondent also argues that this appeal is moot. In light of our decision to dismiss the appeal, we decline to address this argument.

Supreme Court has determined that “[b]ased on a plain reading of NRS 155.190(1)(h) . . . nothing in NRS 155.190(1)(h) expressly grants this court the authority to address the district court’s findings of fact or conclusions of law beyond the instruction or appointment of a trustee.” *In re Beatrice B. Davis Family Heritage Tr.*, 133 Nev. 190, 193, 394 P.3d 1203, 1206-07 (2017). Accordingly, this court may not hear any other matters addressed by district court’s order, including jurisdictional issues. *Id.* at 193, 394 P.3d 1206-1207 (concluding the court lacked jurisdiction to review whether the district court erred in assuming jurisdiction over the trust and over the investment trust advisor in an appeal from an order instructing or appointing a trustee under NRS 155.190(1)(h)).

On appeal, Steven does not challenge his confirmation as trustee. Instead, Steven seeks this court’s review of whether the district court properly assumed in personam jurisdiction over him as trustee, and whether the district court properly assumed in rem jurisdiction over the trust. Because appellants challenge matters outside the scope of NRS 155.190(1)(h)’s grant of appellate jurisdiction—*i.e.*, whether the district court’s exercise of jurisdiction was appropriate to begin with—we conclude we lack jurisdiction to consider this appeal.<sup>2</sup> *See In re Beatrice*, 133 Nev. at 193, 394 P.3d at 1206-1207. Appellants also argue that their appeal does not rely solely on NRS 155.190(1)(h), and cite to several other statutes as additional bases to confer jurisdiction over their appeal. Having reviewed

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<sup>2</sup>Steven and the Trust have two additional appeals, one before the Nevada Supreme Court, and one pending before this court. As such, appellants have other opportunities and more appropriate avenues to address their jurisdictional issues.

these statutes, we disagree and conclude that they do not confer appellate jurisdiction over the issues presented by this appeal. Accordingly, we

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. William S. Potter, District Judge, Family Court Division  
Howard & Howard Attorneys PLLC  
Marquis Aurbach Coffing  
Eighth District Court Clerk