IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PATRICK PUCKETT,
Appellant,
vs.
IRELAND BANK, AN IDAHO STATE CHARTERED BANK,
Respondent.

No. 80806-COA

FILED

MAR 30 2021

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

ORDER OF AFFIRMANCE

Patrick Puckett appeals from a district court order striking an answer and entering a default judgment in a quiet title action. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

Respondent Ireland Bank (the Bank) foreclosed on commercial property in Pahrump and acquired it by credit bid. The Bank later entered into negotiations with Puckett concerning a potential lease and option to purchase the property. Puckett began using the property, but relations between the parties soured, and the Bank initiated eviction proceedings and filed the underlying quiet title action. Puckett filed a motion to dismiss the complaint under NRS 80.055(2) on grounds that the Bank had failed to comply with the requirements set forth in NRS 80.010-.040 for a foreign corporation to conduct business within Nevada. The district court denied the motion, concluding summarily that the Bank had standing to bring the action. The matter proceeded through protracted litigation, and the district court—applying all of the factors set forth in *Young v. Johnny Ribeiro Building, Inc.*, 106 Nev. 88, 92-93, 787 P.2d 777, 780 (1990)—ultimately struck Puckett's answer and entered a default judgment against him as a discovery sanction. This appeal followed.

On appeal, Puckett does not substantively challenge the district court's decision to strike his answer and enter a default judgment, and he has therefore waived the issue.[1] *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (noting that issues not raised on appeal are deemed waived). Puckett does, however, challenge the district court's decision to deny his motion to dismiss under NRS 80.055(2), and we address his argument on that point. *See Consol. Generator-Nev., Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998) (recognizing that interlocutory orders are reviewable on appeal from the final judgment); *see also Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (providing that an appeal from a final judgment is typically an adequate legal remedy with respect to an order denying a motion to dismiss).

Puckett contends that the district court was required to dismiss the underlying action under NRS 80.055(2), which provides that "every

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[1]Puckett requests that this court direct Judge Wanker to "[v]acate and [d]ismiss all her [o]rders against [him]," but he does not in any way challenge the grounds the district court provided for the discovery sanction (i.e., failing to adequately participate in discovery). Instead, he vaguely argues that Judge Wanker and the Bank's counsel improperly colluded against him and that Judge Wanker should have recused herself or been disqualified on grounds of bias. But none of Puckett's proffered examples of purported collusion or bias appear in the record on appeal, *see Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) ("[A]ppellants are responsible for making an adequate appellate record."); *see also* NRAP 9(b) (providing that pro se appellants in civil appeals have a duty to "identify and request all necessary transcripts" in accordance with that rule), and the district court's legal rulings alone are not grounds for disqualification, *In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) ("[R]ulings and actions of a judge during the course of official judicial proceedings do not establish legally cognizable grounds for disqualification [on grounds of personal bias].").

[foreign] corporation which fails or neglects to comply with the provisions of NRS 80.010 to 80.040, inclusive, may not commence or maintain any action or proceeding in any court of this State until it has fully complied." In support, he cites to our supreme court's decision in *Executive Management, Ltd. v. Ticor Title Insurance Co.*, in which it interpreted a materially similar predecessor to NRS 80.055 and held that, when a foreign corporation files suit in Nevada without properly qualifying to do business in the state under NRS 80.010-.040, the district court must stay—rather than dismiss—the action until the foreign corporation qualifies, but that a failure to promptly qualify could nevertheless result in dismissal. 118 Nev. 46, 49-52, 38 P.3d 872, 874-76 (2002).

The Bank counters that it was not required to comply with NRS 80.010-.040 because it was not conducting business in Nevada for purposes of those provisions. Specifically, it points to NRS 80.015(1)(a)-(m), which sets forth specific activities that do not constitute doing business in the state, including "[m]aintaining, defending or settling any proceeding;" "[s]ecuring or collecting debts or enforcing mortgages and security interests in property securing the debts;" "[t]ransacting business as an out-of-state depository institution pursuant to the provisions of chapters 657 to 671, inclusive, of NRS;" and "[t]ransacting business in interstate commerce."

Puckett's argument on this issue, both below—including when he was represented by counsel—and on appeal, amounts to little more than conjecture regarding the Bank's purported obligation to comply with Nevada's foreign-corporation requirements. In essence, Puckett contends that because the Bank is chartered in Idaho, it was required to comply with the foreign-corporation statutes, and its failure to do so should have prevented it from maintaining the underlying action. But determining

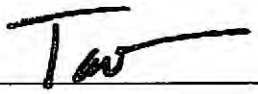
whether a foreign corporation is conducting business in Nevada for purposes of NRS 80.010-.040, "although guided somewhat by NRS 80.015, is often a laborious, fact-intensive inquiry resolved on a case-by-case basis." *Exec. Mgmt.*, 118 Nev. at 49, 38 P.3d at 874; *see Sierra Glass & Mirror v. Viking Indus., Inc.*, 107 Nev. 119, 122, 808 P.2d 512, 513 (1991) ("[T]he test to determine if a company is doing business in a state is two pronged. Courts look first to the nature of the company's business functions in the forum state, and then to the quantity of business conducted in the forum state."). And Puckett made no effort below—nor does he on appeal—to explain how the Bank was supposedly conducting business in Nevada in a way that would implicate NRS 80.010-.040, nor does it appear from the record that he ever sought to conduct discovery concerning this "fact-intensive inquiry." *Exec. Mgmt.*, 118 Nev. at 49, 38 P.3d at 874.

Further, despite the Bank's argument in its answering brief that its activities within the state did not amount to doing business under NRS 80.015(1), Puckett chose not to file a reply brief to provide any counterargument on that point. *See Colton v. Murphy*, 71 Nev. 71, 72, 279 P.2d 1036, 1036 (1955) (concluding that when respondents' argument was not addressed in appellants' opening brief, and appellants declined to address the argument in a reply brief, "such lack of challenge cannot be regarded as unwitting and in our view constitutes a clear concession by appellants that there is merit in respondents' position"). And the only activities—other than litigating the instant action—that the record reveals the Bank engaged in within the state (i.e., enforcing its security interest in the property and negotiating a potential lease and option to purchase with Puckett) do not persuade us that the Bank was required to comply with NRS 80.010-.040. *See* NRS 80.015(1)(a), (h) (providing that neither

litigating an action nor enforcing a security interest "constitute doing business in this State");[2] *RTTC Communications, LLC v. Saratoga Flier, Inc.*, 121 Nev. 34, 39, 110 P.3d 24, 27 (2005) ("This court has held that transacting a single piece of business in the state is not 'doing business' in the sense contemplated by the foreign corporation statute." (alteration and internal quotation marks omitted)). Accordingly, Puckett has failed to demonstrate that he is entitled to any relief, and we

ORDER the judgment of the district court AFFIRMED.[3]

_____, C.J.
Gibbons



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[2]We note that NRS 80.015(3) goes on to specify that "[a] person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter . . . *unless* the person" engages in certain enumerated activities. (Emphasis added.) But Puckett does not present any argument concerning these enumerated activities, and the record does not reveal that the Bank engaged in any of them.

[3]Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal. Moreover, we deny the Bank's request for attorney fees and costs under NRAP 38.

cc: Hon. Kimberly A. Wanker, District Judge
Patrick Puckett
Michael M. DeLee
Nye County Clerk