

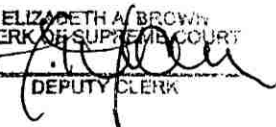
IN THE SUPREME COURT OF THE STATE OF NEVADA

U.S. BANK NATIONAL ASSOCIATION,
NOT IN ITS INDIVIDUAL CAPACITY,
BUT SOLELY AS TRUSTEE FOR THE
NRZ PASS-THROUGH TRUST VIII, A
NATIONAL BANKING ASSOCIATION,
Appellant,
vs.
7321 WANDERING STREET TRUST, A
NEVADA TRUST,
Respondent.

No. 87419

FILED

MAR 06 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting a motion for a temporary restraining order and/or a preliminary injunction. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

When initial review of the docketing statement and documents before this court revealed a potential jurisdictional defect, this court ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. This court explained that an order granting a temporary restraining order is not substantively appealable. *See Sicor, Inc. v. Sacks*, 127 Nev. 896, 900, 266 P.3d 618, 620 (2011). Further, although an order granting a preliminary injunction is generally appealable under NRAP 3A(b)(3), an order that does not finally resolve a motion for a preliminary injunction is not appealable. *See id.* (explaining that this court has consistently required that, even for appealable interlocutory orders, an order must finally resolve the particular issue for an appeal to be proper). The order challenged here only grants a 30-day preliminary injunction and appears to grant respondent additional time to file a reply in support of its motion. Finally, this court observed that it appeared the appeal could be

moot because the temporary restraining order/preliminary injunction had expired.

In response, appellant asserts that all issues raised in the order to show cause have been remedied by entry of a December 8, 2023, district court order granting a preliminary injunction. Appellant asks that this appeal be consolidated with the appeal from the December 8, 2023, order (Docket No. 87880). Respondent counters in reply that the challenged order is not appealable because it does not finally resolve the preliminary injunction and is moot because it expired by its own terms. Respondent further contends that there is a jurisdictional defect with the appeal in Docket No. 87880 and asks that this court dismiss both appeals.

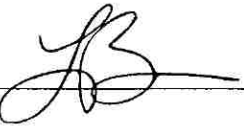
Appellant fails to demonstrate that this court has jurisdiction over this appeal. *See Moran v. Bonneville Square Assocs.*, 117 Nev. 525, 527, 25 P.3d 898, 899 (2001) (“[T]he burden rests squarely upon the shoulders of a party seeking to invoke our jurisdiction to establish, to our satisfaction, that this court does in fact have jurisdiction.”). The challenged order grants a temporary, 30-day temporary restraining order/preliminary injunction pending further briefing and consideration by the district court. To the extent the order grants a temporary restraining order it is not appealable. *Sicor*, 127 Nev. at 900, 266 P.3d at 620. To the extent the order grants a preliminary injunction, it is not appealable because it does not finally resolve the preliminary injunction request and is only temporary in nature. *See id.* Moreover, appellant fails to demonstrate that the appeal is not moot where the challenged order has now expired. *See, e.g., Cashman Equip. Co. v. W. Edna Assocs., Ltd.*, 132 Nev. 689, 702-03, 380 P.3d 844, 853 (2016) (explaining when an appeal is moot).

Accordingly, this appeal is dismissed and appellant's motion to consolidate is denied. This court declines to determine jurisdiction over the appeal in Docket No. 87880 in the context of this appeal. Therefore, respondent's request to dismiss the appeal in Docket No. 87880 is denied.

It is so ORDERED.


_____, J.
Herndon


_____, J.
Lee


_____, J.
Bell

cc: Hon. Mark R. Denton, District Judge
Akerman LLP/Las Vegas
Hong & Hong
Eighth District Court Clerk