

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES G. CULVERWELL,
INDIVIDUALLY,
Appellant,

vs.

ATILIO CAPURRO AND MARIELLEN
CAPURRO, HUSBAND AND WIFE,
Respondents.

JAMES G. CULVERWELL,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE AND THE HONORABLE
CONNIE J. STEINHEIMER, DISTRICT
JUDGE,

Respondents,

and

ATILIO CAPURRO AND MARIELLEN
CAPURRO,
Real Parties in Interest.

No. 39749

No. 39836

FILED

SEP 10 2002

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

ORDER DISMISSING APPEAL AND DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

These are an appeal and a petition for a writ of mandamus or prohibition challenging district court contempt orders. On July 29, 2002, we ordered appellant to show cause why the appeal should not be dismissed for lack of jurisdiction. We noted that a contempt order is not substantively appealable.

This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule.¹ There is no such authorization for an appeal from a contempt order.² Thus, we conclude that this court lacks jurisdiction over the appeal from the district court's contempt orders, and we dismiss the appeal in Docket No. 39749.

In regard to the writ petition, on July 10, 2002, we directed the real parties to file an answer. On August 13, 2002, we ordered petitioner to file a reply in support of the petition. We have considered the petition, answer and reply, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time.³


¹See Kokkos v. Tsalikis, 91 Nev. 24, 530 P.2d 756 (1975).


²NRAP 3A(b); Pengilly v. Rancho Santa Fe Homeowners, 116 Nev. 646, 5 P.3d 569 (2000) (stating that the proper mode of review of a contempt order is by extraordinary writ).

³See NRS 34.160; NRS 34.320; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981); In re Marriage of Lueck, 489 N.E.2d 443, 444-45 (Ill. App. Ct 1986) (stating that when the contempt sanction is invoked to uphold the court's dignity, the contempt proceeding is exempt from the automatic bankruptcy stay); Ex Parte Hedden, 29 Nev. 352, 374, 90 P. 737, 743 (1907) (stating that an affidavit detailing the contempt is not required if the judge has direct knowledge of the contempt); Nev. Const. art. 1, § 14 (prohibiting "imprisonment for debt, except in cases of fraud, libel, or slander"); Ex Parte Bergman, 18 Nev. 331, 342, 4 P. 209, 216 (1884) (observing that the fraud exception to the constitutional immunity from imprisonment for debt applies when there is an attempt at a fraudulent disposition of property with intent to delay the creditor, or to deprive him of payment).

Accordingly, we deny the petition in Docket No. 39836.⁴

It is so ORDERED.⁵


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

cc: Hon. Connie J. Steinheimer, District Judge
Mario G. Recanzone, Settlement Judge
Lee T. Hotchkin Jr.
Stephen H. Osborne
Washoe District Court Clerk

⁴Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

⁵We deny as moot the Capurros' July 25, 2002 motion insofar as it seeks to "consolidat[e] the writ of mandamus into the civil appeal settlement proceedings." But insofar as that motion seeks an extension of time to file an answer to the writ petition, we grant the motion. The August 2, 2002 request for submission is denied as moot. The August 6, 2002 motion to strike the answer as untimely is denied. The August 21, 2002 motion for leave to file a reply in support of the motion to strike is granted. The clerk of this court shall file the reply provisionally received by this court on August 21, 2002.