3-5-2013


Ivy Hensel
Nevada Law Journal

Follow this and additional works at: http://scholars.law.unlv.edu/nvscs

Part of the Civil Procedure Commons

Recommended Citation
http://scholars.law.unlv.edu/nvscs/114

This Case Summary is brought to you by Scholarly Commons @ UNLV Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact david.mcclure@unlv.edu.
Summary

Whether the Court has jurisdiction to review an appeal of a post-judgment district court order that declared the appellant to be a vexatious litigant.

Disposition/Outcome

The Court established that a vexatious litigant order does not constitute a special order entered after final judgment or an order granting injunction under the NRAP. Thus, the Court lacked jurisdiction to review an appeal of such an order.

Factual and Procedural History

The district court granted both the respondent’s motion to dismiss and motion for an order declaring the appellant a vexatious litigant. The appellant’s notice of appeal was timely as to the vexatious litigant order.

Discussion

The Court heard this appeal en banc. Justice Gibbons wrote the opinion, with Justices Pickering, Douglas, Hardesty, Parraguirre, Cherry, and Saitta concurring. The Court has jurisdiction to consider an appeal only when the appeal is authorized by court rule or statute. NRAP 3A(b) lists the orders that are subject to appeal. A vexatious litigant order does not constitute a special order entered after final judgment under NRAP 3A(b) because inhibiting the appellant’s right to submit court filings arises from U.S. and Nevada Constitutions, case law, statutes, and court rules, not the judgment previously entered. Additionally, a vexatious litigant order does not constitute an injunction because the order did not follow the procedure or take the form of an injunction pursuant to NRCP 65.

Conclusion

Post judgment vexatious litigant orders may only be challenged through an original petition for writ relief pursuant to NRS Chapter 34.