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APPELATE PROCEDURE: AVAILABILITY OF WRITS

Summary

The Court considered a petition for a writ of mandamus or prohibition from a Petitioner who failed to timely appeal an adverse judgment.

Disposition

The Court denied the writ petition. Where an adequate remedy was available, writ relief is generally improper.

Factual and Procedural History

In 2011, Geanie Bradford (here, Petitioner) filed for divorce from Kevin Bradford. She also sought custody of their minor child. However, the district court concluded that the Bradford marriage was invalid and dismissed Petitioner's divorce complaint as moot. Though it is unclear from the record when the custody claim was initiated, the district court treated it as a "companion case" separate from the divorce case. Petitioner did not appeal the dismissal and sought no other relief for nearly one year until filing the writ petition decided here. Petitioner asserted that writ relief was appropriate because the order dismissing her divorce complaint was not valid and not a final judgment and thus not appealable. First, she claimed the order was not valid because the district court based its sua sponte dismissal on an erroneous legal conclusion. Second, she claimed that the order was not a final judgment because the custody case included issues also addressed in the divorce case.

Discussion

The Court quickly disposed of both Petitioner's assertions. First, the Court noted that the validity of a court order is based on competent jurisdiction, not correct legal reasoning. Here, the court's jurisdiction was not in dispute and the order was valid. Second, the Court found the district court's order dismissing the divorce complaint was a final judgment observing the child custody suit was a separate action and did not preserve the divorce case as ongoing. Because the order was a valid, final judgment, Petitioner could have appealed the dismissal under NRAP 3A(b)(1).

Extraordinary writ relief is within the discretion of the Court.² However, when an "adequate and speedy legal remedy" for an adverse judgment is otherwise available Court policy precludes relief by writ.³ The Court has repeatedly found filing an appeal to be an adequate and speedy legal remedy when the issues in dispute allow for meaningful review by the Court.⁴

¹ By Edward Wynder.

² *Int'l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 198, 179 P.3d 556, 559 (2008).

³ *Id.* at 197 (citing *State ex rel. Dept. of Transp. v. Thompson*, 99 Nev. 358, 361–62, 662 P.2d 1338, 1340 (1983)).

⁴ *Halcrow, Inc. v. Eighth Jud. Dist. Ct.*, 129 Nev. ___, ___, 302 P.3d 1148, 1151 (2013) (quoting *D.R. Horton, Inc. v. Eighth Jud. Dist. Ct.*, 123 Nev. 468, 474–75, 168 P.3d 731, 736 (2007)).

Here, the Court found that appeal was an adequate legal remedy because the issue of whether Petitioner’s marriage was valid was a question the Court would have been able to answer. Because Petitioner could have otherwise sought relief by an adequate legal remedy—an appeal—the Court declined to consider the writ request. The Court recognized that their ruling leaves Petitioner without legal recourse, but reasoned that “writ relief is not available to correct an untimely notice of appeal.”⁵

Conclusion

Relief via writ was improper because Petitioner had access to an adequate legal remedy.

⁵ *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 224–25, 88 P.3d 840, 841 (2004).