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Summary of Peck v. Crouser, 129 Nev. Adv. Op. 12

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CIVIL PROCEDURE - APPELLATE JURISDICTION

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.² 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.³ NRAP 3A(b) lists the orders that are subject to appeal.⁴ 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.⁵ 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 NRCF 65.⁶

Conclusion

Post judgment vexatious litigant orders may only be challenged through an original petition for writ relief pursuant to NRS Chapter 34.⁷

¹ By Ivy Hensel.

² NEV. R. APP. P. 3A(b).

³ *Taylor Constr. Co. v. Hilton Hotels*, 100 Nev. 207, 209, 678 P.2d 1152, 1153 (1984).

⁴ NEV. R. APP. P. 3A(b).

⁵ NEV. R. APP. P. 3A(b)(8).

⁶ NEV. R. APP. P. 3A(b)(3); NEV. R. CIV. P. 65.

⁷ NEV. REV. STAT. § 34.