

## Scholarly Commons @ UNLV Law

---

Nevada Supreme Court Summaries

Law Journals

---

7-9-2020

### **Nelson v. Nelson, 136 Nev. Adv. Op. 36 (July 09, 2020)**

Yoosun Jun

Follow this and additional works at: <https://scholars.law.unlv.edu/nvscs>

---

This Case Summary is brought to you by the 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](mailto:david.mcclure@unlv.edu).

FAMILY LAW: JOINT PRELIMINARY INJUNCTION PROCEDURE

**Summary**

The Court dismissed the appeal to review a district court order denying a joint preliminary injunction pursuant to EDCR 5.517 after a divorce decree has been issued. NRAP 3A(b)(3) permits only appeals from injunctions pursuant to NRCP 65. EDCR 5.517 joint preliminary injunctions, the matter of this case, are not subject to NRCP 65. For this reason, the Court held that the issue was not appealable. Hence the Court does not have jurisdiction to review such matters under NRAP 3A(b)(3). The appeal was dismissed.

**Background**

Lynita S. Nelson, appellant, and Eric L. Nelson, respondent, signed a separate property agreement to have two separate property trusts for their community property during their marriage. They both created separate trusts, the Eric L. Nelson Nevada Trust (ELN Trust) and the Lynita S. Nelson Nevada Trust (LSN Trust). When Eric Nelson filed for divorce in 2009, a joint preliminary injunction pursuant to EDCR 5.85, prohibiting involved parties from disposing of any community interested property, was issued.<sup>2</sup>

Upon their divorce, the district court ordered some assets in the ELN Trust to be transferred to the LSN Trust. Eric appealed on this order, which this Court remanded for the district court to conduct proper tracing to determine community interests.<sup>3</sup> Lynita moved for reaffirmation of the district court's prior joint preliminary injunction pursuant to EDCR 5.517. The district court declined to extend the injunction to other assets in the ELN Trust.

Lynita appealed on the district court's denial to extend the injunction pursuant to EDCR 5.517. Eric argued that this order was not appealable.

**Discussion**

Lynita argues that her matter is appealable under NRAP 3A(b)(3). However, the Court has jurisdiction only on appeals authorized by statute or court rule. This Court determines that it does not have jurisdiction to review her appeal.

*NRAP 3A(b)(3) grants jurisdiction only to review orders granting or denying injunctions pursuant to NRCP 65*

NRAP 3A(b) permits an appeal from “[a]n order granting or refusing to grant an injunction or dissolving or refusing to dissolve an injunction.”<sup>4</sup> This Court interprets NRAP 3A(b)(3) as NRCP 65 governs injunctions and provides the procedure for seeking an injunction and the form that grants an injunction must take. Therefore, post-judgment orders are not subject to NRCP 65.

*Joint Preliminary injunctions pursuant to EDCR 5.517 are not governed by NRCP 65*

Lynita's appeal does not have a standing on two bases. First, EDCR 5.517 is applicable “[u]pon the request of any party at any time *prior* to the entry of a decree of divorce or final

---

<sup>1</sup> By Yoosun Jun.

<sup>2</sup> Eighth Jud. Dist. Ct. Rules R. 5.85 (1994) replaced by Eighth Jud. Dist. Ct. Rules R. 5.517 in 2017.

<sup>3</sup> Klabacka v. Nelson, 133 Nev. 164, 182, 394 P.3d 940, 954 (2017).

<sup>4</sup> See Nev. Rules App. Proc. R. 3A(b)(3) (1973).

judgment.”<sup>5</sup> Lynita and Eric’s divorce was finalized. Two, NRC 65(e) provides that “[t]his rule is not applicable to actions for divorce.”<sup>6</sup> NRC 65 excludes family law matters. EDCR 5.517 provides its own procedure for joint preliminary injunctions in family division matters.

NRC 65 and EDCR 5.517 provide different procedures for treating injunctions. This Court, therefore, concludes that injunction orders pursuant to EDCR 5.517 are not appealable under NRAP 3A(b)(3).

*Writ relief is appropriate*

Lynita argues that she will not have an adequate remedy at law if her appeal is denied. When no other rule or statute provides jurisdiction on such an issue, her relief is appropriate by a writ petition.

**Conclusion**

The Court dismissed the appeal for lack of jurisdiction. Joint preliminary injunctions under EDCR 5.517 are not subject to NRC 65. Therefore, Lynita’s appeal is not appealable under NRAP 3(A)(b)(3).

---

<sup>5</sup> Eighth Jud. Dist. Ct. Rules R. 5.517 (2017) (emphasis added).

<sup>6</sup> See Nev. Rules Civ. Proc. R. 65(e) (1953).