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In Re: Petition of Katherine Anne P., 140 Nev. Adv. Op. 37 (June 6, 2024)

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RELIEF UNDER NRCP 60(b) MAY BE SOUGHT BY A PARTY TO THE PROCEEDING, AN ENTITY IN PRIVITY WITH A PARTY, OR A NONPARTY WITH INTERESTS DIRECTLY AFFECTED BY THE JUDGEMENT AND HAVING DISCRETE LEGAL RIGHTS OR CONCRETE INTERESTS.

Summary

The Nevada Supreme Court reviewed an appeal from a district court order that set aside an adoption decree. The Supreme Court found that the district court abused its discretion and reversed the order.

Background

When G.P.'s birth mother was pregnant with G.P., she contacted her step-great-grandmother and great-grandfather, appellants Katherine and Michael, to see if they would accept temporary guardianship of G.P. At first they agreed, but then respondents (G.P.'s grandparents) filed a competing petition for guardianship leading the Second Judicial District Court to set mediation.

Both of G.P.'s birth parents gave written consent to terminate their parental rights, and to G.P.'s adoption by appellants, wherein they filed a petition for adoption with the Eighth Judicial District Court—where they resided. The Second Judicial Court, unaware of the pending adoption petition, denied respondents petition for temporary guardianship but set a trial date.

After the guardianship hearing in the Second Judicial District Court, appellants were the only ones in attendance at the hearing in the Eighth Judicial District Court. The judge granted the adoption. Then, appellants moved to vacate the guardianship trial in the Second Judicial Court which was denied after it was revealed that the Eighth Judicial District Court had no knowledge of the guardianship case. The Second Judicial District Court then stated that all further proceedings would be in the Eighth Judicial District Court.

Following these events, respondents moved to stop the adoption in the Eighth Judicial Court pursuant to NRCP 60(b) but the court granted relief and found the Second Judicial District Court to be the proper venue. Further, it was determined that appellants temporary guardianship would remain during mediation and trial. Respondents appealed the Eighth Judicial District Court's order setting aside the adoption.

Discussion

Standard of review

¹ By Ashley Burt

Typically, a district court “has wide discretion in deciding whether to grant or deny a motion to set aside judgement under NRCP 60(b).”² A district court abuses its discretion [only] if their decision is arbitrary, capricious, or it disregards legal principles.³

The district court abused its discretion when it granted NRCP 60(b) relief requested by a nonparty

NRCP 60(b) permits relief from a final judgement, order, or proceeding where there is “fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party.”⁴ In Nevada, relief may be provided to parties of an action, those in privity with the parties, or to nonparties directly affected by the judgment.⁵ Federal courts have approached this standard similarly, and consequently cases interpreting the rule are considered persuasive authority. An analysis of federal court decisions left the Nevada Supreme Court with the assumption that for nonparties to have standing to set aside a court order, they must show privity with a party or that their rights or interests are directly affected by the court’s decision.

Respondents argued their standing based on their grandparent relationship and their pending guardianship application. However, courts generally conclude that grandparents lack an interest in adoption proceedings solely by virtue of familial relation and no provision designated grandparents as interested parties entitles to notice of adoption proceedings. As a result, the Court found that Nevada Statutes governing adoption do not confer standing on respondents because of their grandparent relationship.

The Court also found no constitutional basis for conferring standing to intervene in an adoption proceeding, despite their petition for guardianship. While they state that the pending guardianship certification creates a prospective interest in the adoption, this is distinguishable from the present and extant rights and liabilities that the Court has held to confer standing to nonparties challenging a judgement directly affecting them.

Conclusion

The Supreme Court concluded that because respondents were not parties in G.P.’s adoption proceedings, do not have a legal interest that was directly affected by the adoption, and lack any other statutory or constitutional bases for standing, that the district court abused its discretion in setting aside G.P.’s adoption pursuant to NRCP 60(b). They clarified that a motion to set aside judgement pursuant to NRCP 60(b) may be brought by a party to the proceeding, an entity in privity with one of the parties, or a nonparty with interests directly affected by the judgement in exceptional circumstances where it has a discrete legal right or interest concretely affected by the judgement. Therefore, the Supreme Court reversed the district court’s order setting aside G.P.’s adoption.

² Cook v. Cook, 112 Nev 179, 181–82 (1996).

³ Skender v. Brunsonbuilt Contr. & Dev. Co., 122 Nev. 1430, 1435 (2006); Vargas v. J Morales Inc., 138 Nev. 384, 387 (2022).

⁴ NEV. R. CIV. P. 60(b).

⁵ Pickett v. Comanche Constr., Inc., 108 Nev. 422, 427 (1992).