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Summary of Campos-Garcia v. Johnson, 130 Nev. Adv. Op. 64

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NEVADA RULES OF CIVIL PROCEDURE: APPEALABILITY OF FINAL JUDGMENTS

Summary

An appeal is properly taken from an amended judgment only when the amendment “disturb[s] or revise[s] legal rights and obligations which the prior judgment had plainly and properly settled with finality.”² Thus, an appeal from a post-judgment award of attorney’s fees and costs must be timely filed, because its incorporation into an amended judgment does not disturb or revise the legal rights and obligations of the parties.

Background

The jury rendered a verdict in the tort action below, and the district court entered a judgment against Campos-Garcia, resolving all the rights and liabilities of the parties, except for attorney’s fees and costs. Campos-Garcia timely filed a notice of appeal from the judgment. The district court later entered an order awarding attorney’s fees, but Campos-Garcia did not file a notice of appeal on that order. Subsequently, however, the district court entered an amended judgment incorporating the award of attorney’s fees and costs into the original judgment. Campos-Garcia filed an amended notice of appeal identifying the amended judgment.

The Supreme Court ordered Campos-Garcia show cause why the appeal from the amended judgment should not be dismissed since Campos-Garcia failed to timely file the notice of appeal regarding the award of attorney’s fees and costs. Campos-Garcia argued that all parties and the district court expected the award of attorney’s fees and costs would be incorporated into an amended judgment, as customary in the Eighth Judicial District Court. The respondent argued the appeal from the award of attorney’s fees and costs was untimely.

Discussion

Under NRCP 54(a), “judgment” includes any order from which an appeal lies.³ Additionally, the appealability of a judgment depends on “what the order or judgment actually does, not what it is called.”⁴ Thus, an appeal from an amended judgment is proper only when the amendment “disturb[s] or revise[s] legal rights and obligations which the prior judgment had plainly and properly settled with finality.”⁵

Conclusion

Here, the order awarding attorney’s fees and costs was independently appealable, but Campos-Garcia’s appeal was untimely as to that order. The amended judgment did not alter the

¹ By Michael Valiente.

² *Morrell v. Edwards*, 98 Nev. 91, 92, 640 P.2d 1322, 1324 (1982).

³ NEV. R. CIV. P. 54(a).

⁴ *Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 445, 874 P.2d 729, 733 (1994) (emphasis omitted); *see also Lee v. GNLV Corp.*, 116 Nev. 424, 426-27, 996 P.2d 416, 417-18 (2000); *Taylor v. Barringer*, 75 Nev. 409, 344 P.2d 676 (1959).

⁵ *Morrell*, 98 Nev. at 92, 640 P.2d at 1324.

legal rights of the parties, thus, the amended judgment was superfluous and not appealable. As a result the Court dismissed the appeal as to the award of attorney's because it lacked jurisdiction.