

SUPREME COURT OF NEVADA

Yonker Construction, Inc. v. Hulme

248 P.3d 313 (Nev. 2010) · No. No. 55406 · Decided December 30, 2010

SUMMARY

The Nevada Supreme Court held that an appeal from an interlocutory order releasing a mechanic's lien under NRS 108.2275 was premature because the district court had not yet awarded attorney fees and costs. The court dismissed the appeal for lack of jurisdiction, concluding that the statutory process must be fully completed before an appeal may proceed.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Per Curiam; Hardesty; Douglas; Pickering
JURISDICTION	Nevada
DECIDED	December 30, 2010
DOCKET	No. 55406
DISPOSITION	dismissed
PROCEDURAL POSTURE	Yonker Construction appealed an interlocutory district-court order releasing a mechanic's lien that reserved the determination and award of attorney fees and costs for a later date. The Supreme Court of Nevada dismissed the appeal as premature for lack of appellate jurisdiction.
STANDARD OF REVIEW	The court considered de novo whether it had appellate jurisdiction over the challenged interlocutory order.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Yonker Construction, Inc. v. Colin Hulme, Vanessa Hulme

TOPICS

- construction law
- interlocutory appeal
- appellate jurisdiction
- final judgment rule
- attorney fees

PRACTICE AREAS

- construction law
- appellate procedure
- civil procedure
- remedies

QUESTIONS PRESENTED

1. Whether an order releasing a mechanic's lien under NRS 108.2275(6)(a) is immediately appealable under NRS 108.2275(8) when the order reserves the award of attorney fees and costs for a later date.
2. Whether the appeal could proceed under the general rule that attorney-fee and cost awards may be appealable as special orders after final judgment under NRAP 3A(b)(8).

HOLDINGS

1. NRS 108.2275(8) permits an appeal from an interlocutory order releasing a mechanic's lien only after the district court has both directed release of the lien and awarded attorney fees and costs as required by NRS 108.2275(6)(a). An order that reserves the fee and cost award is not yet appealable, making an appeal from that order premature.
2. The general rule allowing appeals from special orders after final judgment does not apply to an appeal authorized by the statutory exception in NRS 108.2275(8), because that exception concerns immediate review of specified interlocutory orders rather than final judgments or post-judgment orders.

KEY QUOTATIONS

“Accordingly, we conclude that NRS 108.2275(8) allows appeals from interlocutory orders releasing a mechanic's lien only after subsection 6(a)'s mandate has been fully carried out, meaning that the court has directed the lien's release and awarded attorney fees and costs.” (314)

“Since we lack jurisdiction over the premature appeal, this appeal is dismissed.” (314)

FACTUAL BACKGROUND

The district court determined that Yonker Construction's mechanic's lien was frivolous and made without reasonable cause. It ordered the lien released but deferred the award of attorney fees and costs until after reviewing the applicant's affidavit and verified memorandum. The order therefore did not fully carry out the statutory mandate governing frivolous mechanic's liens.

PROCEDURAL HISTORY

The district court determined that the mechanic's lien was frivolous and made without reasonable cause and ordered the lien released. Rather than awarding attorney fees and costs in the same order, the district court directed the applicant to submit an affidavit of attorney fees and a verified memorandum of costs. The Supreme Court issued a show-cause order regarding the premature appeal and ultimately dismissed it because the statutory requirements for an appealable order had not been fully satisfied.

DISPOSITION

dismissed

CASES CITED

- Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998)

- Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000)
- Santoro v. Principi, 274 F.3d 1366, 1369 (Fed. Cir. 2001)
- Allen v. Okam Holdings, Inc., 116 F.3d 153, 154 (5th Cir. 1997)
- Crestline Inv. Group v. Lewis, 119 Nev. 365, 368 n. 1, 75 P.3d 363, 365 n. 1 (2003)

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