

SUPREME COURT OF NEVADA

RJS Legacy, LLC v. IBMS LLC

RJS Legacy · No. 82577 · Decided October 21, 2021

SUMMARY

The Nevada Supreme Court dismissed an appeal from an order appointing a successor interim receiver for lack of appellate jurisdiction. The court held that NRAP 3A(b)(4), which permits appeals from orders appointing or refusing to appoint a receiver, does not authorize an appeal from an order appointing a successor receiver.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Stiglich, J.
JURISDICTION	Nevada
DECIDED	October 21, 2021
DOCKET	82577
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from a district court order appointing a successor interim receiver; respondent moved to dismiss for lack of appellate jurisdiction.
STANDARD OF REVIEW	The court construed the scope of appellate jurisdiction under NRAP 3A(b)(4) and strictly construed the rule as an exception to the final judgment rule.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion
PARTIES	RJS Legacy, LLC, Lisa Shambro v. IBMS LLC, Fourteener, LLC, Mitchell Chait, Danielle Slaughter, as successor interim receiver

TOPICS

- appellate jurisdiction
- interlocutory appeal
- final judgment rule
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- Appellate procedure
- Civil procedure
- Commercial litigation

QUESTIONS PRESENTED

1. Whether NRAP 3A(b)(4), which permits an appeal from an order appointing or refusing to appoint a receiver, authorizes an appeal from an order appointing a successor receiver.
2. Whether any other statute or court rule authorized appellate jurisdiction over the order appointing the successor receiver.

HOLDINGS

1. NRAP 3A(b)(4) does not permit an appeal from a district court order appointing a successor receiver.
2. Because no other statute or court rule appeared to authorize an appeal from the challenged order, the Supreme Court of Nevada lacked jurisdiction.

KEY QUOTATIONS

“This rule provides an exception to the final judgment rule by allowing an appeal from an interlocutory order.”

“So construed, NRAP 3A(b)(4) does not permit an appeal from a district court order appointing a successor receiver.”

“As no other statute or court rule appears to allow an appeal from the challenged order, this court lacks jurisdiction.”

FACTUAL BACKGROUND

The district court had previously appointed a receiver for Fourteener, LLC. The challenged order appointed Danielle Slaughter as a successor interim receiver. The appellants sought appellate review of that order, while IBMS LLC argued that the governing appellate rule authorizes appeals from orders appointing receivers but not from orders appointing successor receivers.

PROCEDURAL HISTORY

The Eighth Judicial District Court for Clark County entered an order appointing a successor interim receiver. The appellants appealed. IBMS LLC moved to dismiss, arguing that Nevada Rule of Appellate Procedure 3A(b)(4) does not authorize an appeal from an order appointing a successor receiver. The Supreme Court of Nevada granted the motion and dismissed the appeal for lack of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Yonker Constr., Inc. v. Hulme, 126 Nev. 590, 592, 248 P.3d 313, 314 (2010)
- City & Cty. of San Francisco v. Shers, 46 Cal. Rptr. 2d 57 (Ct. App. 1995)
- Swate v. Johnston, 981 S.W.2d 923, 925 (Tex. App. 1998)

- State v. Superior Ct. of Spokane Cty., 34 P. 431 (1893)
- Brown v. MHC Stagecoach, LLC, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF NEVADA RJS LEGACY, LLC, A DELAWARE No. 82577 LIMITED LIABILITY COMPANY; AND LISA SHAMBRO, Appellants, vs. FILED IBMS LLC, IN ITS OWN INDIVIDUAL CAPACITY, AND DERIVATIVELY ON OCT 2 1 2021 BEHALF OF FOURTEENER, LLC, A ELIZABE A. BROWN CLERK • F - PROM COURT NEVADA LIMITED LIABILITY gy AV" cti COMPANY; MITCHELL CHAIT; AND DANIELLE SLAUGHTER, AS SUCCESSOR INTERIM RECEIVER, Respondents.

ORDER DISMISSING APPEAL This is an appeal from a district court order appointing a successor interim receiver. Eighth Judicial District Court, Clark County; Nancy L. Allf, Judge. Respondent IBMS LLC has filed a motion to dismiss this appeal for lack of jurisdiction. IBMS contends that NRAP 3A(b)(4) does not allow an appeal from an order appointing a successor receiver.

In opposition, appellants assert that the plain language of NRAP 3A(b)(4) allows an appeal from an order appointing a receiver and the challenged order appoints a receiver; the rule is not limited to orders appointing an initial 'IBMS also asserts that (1) the order is not appealable as a final judgment and (2) appellants cannot raise any arguments in this appeal related to the original order appointing a receiver.

See NRAP 3A(b)(1). However, appellants specifically disclaim jurisdiction based on the entry of final judgment and appear to disclaim any attempt to appeal from the original order appointing a receiver. SUPREME COURT OF NEVADA (01 1947A ADP receiver.

Having considered the motion, opposition, and reply, this court agrees with IBMS. NRAP 3A(b)(4) permits an appeal from a district court order 'appointing or refusing to appoint a receiver or vacating or refusing to vacate an order appointing a receiver." This rule provides an exception to the final judgment rule by allowing an appeal from an interlocutory order.

Therefore, the rule must be strictly construed. *Yonker Constr., Inc. v. Hulme*, 126 Nev. 590, 592, 248 P.3d 313, 314 (2010) ("Exceptions to the final judgment rule are narrowly construed."). So construed, NRAP 3A(b)(4) does not permit an appeal from a district court order appointing a successor receiver. Other courts have reached similar conclusions. See *City & Cty. of San Francisco v. Shers*, 46 Cal. Rptr.

2d 57 (Ct. App. 1995) (holding that a statute allowing an appeal from "an order appointing a receivee does not allow an appeal from an order appointing a successor receiver); *Swate v.*

Johnston, 981 S.W.2d 923, 925 (Tex. App. 1998) (concluding that a statute allowing an interlocutory appeal from "an order appointing a receiver does not allow an appeal from an order appointing a successor receiver); State v. Superior Ct. of Spokane Cty., 34 P. 431 (1893) (holding that a statute allowing an appeal "from an order appointing or removing or refusing to appoint or remove a receiver," does not permit an appeal from an order removing a receiver and appointing a more suitable person in his place); E. H. Schopler, Annotation, Appealability of Order Appointing, or Refusing to Appoint, Receiver, 72 A.L.R.2d 1009 § 2[a] (originally published in 1960) (Irrespective of whether, as a general rule, an order appointing a receiver is subject to direct appeal in a particular jurisdiction, it has been held, with few exceptions, that an order merely substituting another receiver for one already appointed is not so appealable.").

As no other statute or court rule appears to allow an appeal from the challenged order, see *Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013) (this court "may only consider appeals authorized by statute or court rule"), this court lacks jurisdiction.

The motion to dismiss is granted and this court ORDERS this appeal DISMISSED. A1045(..-•° 1/4.-Lt/AM), J. Stiglich Silver cc: Hon. Nancy L. Allf, District Judge Paul M. Haire, Settlement Judge Holland & Hart LLP/Las Vegas Snell & Wilmer, LLP/Las Vegas Gordon Law, LLC McNutt Law Firm, P.C. Eighth District Court Clerk SUPREME COURT OF NEVADA 0) 1947A 3