

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.

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 21 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 receiver. 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 receivee 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