10-6219

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PERSON AND ESTATE OF VERA MILLER

CAROLYN CLEARY; GREGORY MCKEON; AND THE ESTATE OF JOSEPH MCKEON,
Appellants,
vs.
KATHLEEN BUCHANAN, CLARK COUNTY PUBLIC GUARDIAN,
Respondent.

No. 54783

FILED

MAR 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a September 15, 2009, district court order in a guardianship proceeding that adopted a report and recommendation regarding a petition to approve creditors' claims and that denied the asserted creditors' claims. Eighth Judicial District Court, Family Court Division, Clark County; Charles J. Hoskin, Judge.

When our preliminary review of the docketing statement and the NRAP 3(g) documents revealed potential jurisdictional defects, we ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the guardianship proceeding had not concluded, since the guardian had not been discharged, such that no final order had been entered. See generally NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000) (describing final judgments as ones that dispose of all the issues in a case). Moreover, it appeared that the designated order was not substantively appealable

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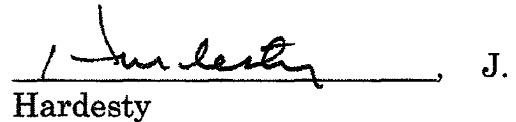
under the guardianship statutes. See NRS 159.325 (allowing appeals from orders that authorize the payment of a claim, but not from orders that deny a claim). Indeed, the subject claims appeared to have proceeded under NRS 159.111, and subsection (4)(b) of that statute expressly provides that "[n]o appeal may be taken" from the district court's summary determination to allow or reject a claim.

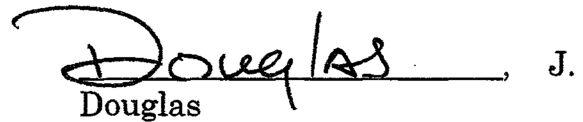
Appellants timely responded, asserting that (1) the order is final and appealable because the court already had discharged the guardian before the order was entered; (2) the order was appealable under NRS 159.325(6), which permits appeals from orders "[d]etermining ownership interests in property"; and (3) NRS 159.111(4)'s bar against appeals from orders summarily allowing or denying claims does not apply because respondent filed an objection to appellants' petition. Respondent timely filed a reply, as permitted, objecting to appellants' characterization of the matter. We agree with respondent's analysis.

In particular, the appealed order does not constitute a final order because neither it nor the prior order that appellants referred to finally discharged the guardian. Moreover, even if the order was final, NRS 159.111(4) prohibits appeals from orders allowing or rejecting claims that are heard and determined under that statute's summary procedure. Although appellants assert that NRS 159.111(4) does not apply because respondent filed an opposition to their petition, as respondent points out, she did not object to the court's summary determination and appellants did not pursue relief outside of the guardianship matter; thus, the matter proceeded under NRS 159.111. NRS 159.111(3). Finally, the district court's order does not determine ownership interests in property, and

consequently, it is not appealable under NRS 159.325(6). Accordingly, as we lack jurisdiction, we

ORDER this appeal DISMISSED.


_________________________, J.
Hardesty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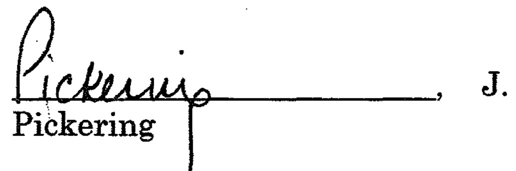
Douglas


_________________________, J.
Pickering

cc: Hon. Charles J. Hoskin, District Judge, Family Court Division
Carolyn Worrell, Settlement Judge
Lionel Sawyer & Collins/Las Vegas
Goldsmith & Guymon, P.C.
Eighth District Court Clerk