

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF: THE
DUCKWORTH FAMILY TRUST, Dated
March 12, 2015.

No. 82314

KYLA DUCKWORTH,
Appellant,
vs.
CARY DUCKWORTH, TRUSTEE; AND
TARA DUCKWORTH,
Respondents.

FILED

JUL 30 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING MOTION

This is an appeal from an order of the probate court denying appellant's objection to the probate commissioner's report and recommendations. Respondent Cary Duckworth has filed a motion to dismiss the appeal on the ground that the report does not fall within the parameters for appealability under NRS 155.190, and it does not dispose of all the issues and is therefore not a final appealable order. Appellant opposes the motion and argues the report is appealable pursuant to NRS 155.190 and 155.210. Cary has filed a reply.

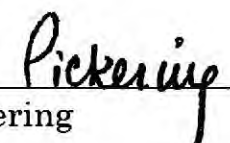
The commissioner's order confirms Cary as successor trustee, and directs Cary to obtain valuations of personal property, directs appellant to provide an affidavit regarding property found in England, and then directs Cary to complete an accounting. The commissioner then set a trial date and a status check. Appellant objected to the commissioner's finding that she had made a claim to property in England that would affect her beneficial interest under the trust in excess of \$10,000. The district court denied the objection, and appellant has appealed.


While the order appealed from does not finally resolve all issues between the parties, *see Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000) and NRAP 3A(b)(1), other statutory provisions address independently appealable interlocutory probate orders. Specifically, NRS 155.190(1)(h) provides for an appeal from an order appointing a trustee, which the commissioner's order does with respect to Cary. NRS 155.190(1)(n) provides for an appeal from "any decision wherein the amount in controversy equals or exceeds, exclusive of costs, \$10,000." It appears this provision may apply. NRS 155.190 does not mandate the form of the order appealed from and might be read to encompass the district court's order denying appellant's objection. It appears, therefore, that the order may be appealable at least to the extent it challenges the appointment of the trustee.

Further, it appears that the jurisdictional issue is sufficiently tied to the merits of the appeal that it is inappropriate to dismiss the entire appeal at this stage. *See Taylor v. Barringer*, 75 Nev. 409, 410, 344 P.2d 676, 676 (1959) (argument relating to the merits of an appeal is not a proper ground for the dismissal of an appeal). Accordingly, the motion to dismiss is denied without prejudice to this court's right to address the jurisdictional limits in the disposition of the merits.

It is so ORDERED.


_____, J.
Cadish


_____, J.
Pickering


_____, J.
Herndon

cc: Jerimy Kirschner & Associates, P.C.
Dawson & Lordahl, PLLC
Hayes Wakayama
Jolley Urga Woodbury Holthus