

IN THE SUPREME COURT OF THE STATE OF NEVADA

TARA KELLOGG, A/K/A TARA
KELLOGG-GHIBAUDO,
Appellant,
vs.
ALEX B. GHIBAUDO,
Respondent.

No. 84778

FILED

OCT 06 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

O R D E R

This is an appeal from a post-divorce-decree district court order regarding the dissemination of videos of certain court proceedings. Respondent moves to dismiss this appeal for lack of jurisdiction, asserting that the order is not appealable as either a final judgment, *see* NRAP 3A(b)(1), or a special order after final judgment, *see* NRAP 3A(b)(8), as asserted by appellant. Appellant opposes the motion and also moves for leave to file an amended docketing statement. Respondent opposes the motion for leave to file an amended docketing statement and moves for sanctions against appellant's counsel. Appellant opposes the motion for sanctions.

The final judgment in this matter appears to be the decree of divorce, entered on February 1, 2017. *See Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (“[A] final judgment is one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorney’s fees and costs.”). “There may not be more than one final judgment in an action or proceeding.” *Alper v. Posin*, 77 Nev. 328, 331, 363 P.2d 502, 503 (1961) *overruled on other grounds by Lee v. GNLV Corp.*, 116

Nev. 424, 996 P.2d 416 (2000). Therefore, the challenged order is not appealable as a final judgment.

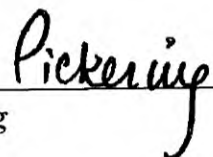
The challenged order also does not appear appealable as a special order after final judgment. An appealable special order “after final judgment must be an order affecting the rights of some party to the action, growing out of the judgment previously entered.” *Gumm v. Mainor*, 118 Nev. 912, 914, 59 P.3d 1220, 1221 (2002). The order challenged here does not appear to affect the rights of a party stemming from the decree of divorce, or any other judgment entered in the underlying matter. See NRCP 54(a) (A “judgment” includes any order from which an appeal lies).

Nevertheless, although the parties do not address it, it appears there is another basis for jurisdiction in this matter. NRAP 3A(b)(3) allows an appeal from an order granting an injunction. “An injunction is ‘[a] court order commanding or preventing an action.’” *Peck v. Crouser*, 129 Nev. 120, 124, 295 P.3d 586, 588 (2013) (quoting *Black’s Law Dictionary* 800 (8th ed. 2004); see also *Nken v. Holder*, 556 U.S. 418, 428 (2009) (“When a court employs the extraordinary remedy of injunction, it directs the conduct of a party.” (internal quotation marks and citation omitted))). The order challenged here directs that the “distribution of private videos from [the district court] proceedings and any proceedings stemming from the parties’ decree of divorce shall immediately cease.” The order also directs appellant “to take active measures to remove videos of hearings from [the district court] proceedings previously posted publicly and videos stemming from the decree of divorce in these private proceedings previously posted publicly from public access.” And the order allows respondent to seek sanctions or other legal remedies after 30 days after notice of entry of the order. It thus appears that the order is injunctive in nature and therefore appealable

under NRAP 3A(b)(1).¹ Cf. *Orange County v. Hongkong & Shanghai Banking Corp. Ltd.*, 52 F.3d 821, 825-26 (9th Cir. 1995) (recognizing three fundamental characteristics of preliminary injunctions: they are (1) directed to a specific party, (2) enforceable by contempt, and (3) designed to accord or protect substantive relief (citing 16 Charles A. Wright et al., *Federal Practice and Procedure* § 3922 at 29 (1977))); see also *Johanson v. Dist. Court*, 124 Nev. 245, 249 n.9, 182 P.3d 94, 96 n.1 (2008) (suggesting, without deciding, that a district court order prohibiting communication may constitute an injunction). Accordingly, the motion to dismiss is denied at this time. The parties may further discuss jurisdiction in their briefs, if deemed warranted. The motion for leave to file an amended docketing statement and the motion for sanctions are also denied.

It is so ORDERED.²


_____, J.
Cadish


_____, J.
Pickering


_____, Sr. J.
Gibbons

¹In *Peck*, this court recognized that injunctions are governed by NRCP 65 and declined to conclude that an order was appealable as an injunction where it did not comply with NRCP 65. However, NRCP 65 does not apply to “actions for divorce, alimony, separate maintenance, or custody of children.” NRCP 65(e)(1). The instant action arises from a complaint for divorce.

²The Honorable Mark Gibbons, Senior Justice, participated in this matter under a general order of assignment.

cc: Schwab Law Firm PLLC
JK Nelson Law LLC
Alex B. Ghibaud, PC.