IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA CRT, LLC, A NEVADA LIMITED LIABILITY COMPANY; AND WELLNESS CONNECTION OF NEVADA, LLC, A NEVADA LIMITED LIABILITY COMPANY, Appellants, vs. THE CITY OF LAS VEGAS, A MUNICIPAL CORPORATION; AND THE CITY COUNCIL OF LAS VEGAS, Respondents.	No. 86737
NEVADA CRT, LLC, A NEVADA LIMITED LIABILITY COMPANY; AND WELLNESS CONNECTION OF NEVADA, LLC, A NEVADA LIMITED LIABILITY COMPANY, Appellants, vs. CITY OF LAS VEGAS, A MUNICIPAL CORPORATION; AND CITY COUNCIL OF LAS VEGAS, Respondents.	No. 87199 ✓

FILED

DEC 27 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER DISMISSING APPEAL AND DENYING MOTIONS

Docket No. 87199 is an appeal from a district court order granting in part a petition for judicial review and from a district court order granting in part a petition for a writ of mandamus. The orders are purportedly certified as final under NRCP 54(b). Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

When initial review of the notice of appeal and documents before this court revealed a potential jurisdictional defect, this court ordered appellants to show cause why the appeal should not be dismissed for lack of jurisdiction. In particular, it appeared the challenged district court orders

are not substantively appealable because they do not finally resolve the issues presented but remand for further substantive proceedings. *See Wells Fargo Bank, N.A. v. O'Brien*, 129 Nev. 679, 680-81, 310 P.3d 581, 582 (2013) ("[A] district court order remanding a matter to an administrative agency is not an appealable order, unless the order constitutes a final judgment on the merits and remands merely for collateral tasks, such as calculating benefits found due."); *State Taxicab Auth. v. Greenspun*, 109 Nev. 1022, 1025, 862 P.2d 423, 424-25 (1993); *Clark County Liquor v. Clark*, 102 Nev. 654, 657-58, 730 P.2d 443, 446 (1986); *see also Bally's Grand Hotel & Casino v. Reeves*, 112 Nev. 1487, 929 P.2d 936 (1996). It also did not appear that the orders are properly certified as final pursuant to NRCP 54(b) where they neither finally adjudicate any claims or finally adjudicate the rights and liabilities of any party to the action. *See Taylor Const. Co. v. Hilton Hotels Corp.*, 100 Nev. 207, 209, 678 P.2d 1152, 1153 (1984) ("NRCP 54(b) certification is not available to provide interlocutory appellate review of an order which does not constitute a final adjudication of fewer than all claims or the rights and liabilities of fewer than all the parties in an action.").

Having considered appellants' response and respondents' reply, this court is not convinced that we have jurisdiction. *See Moran v. Bonneville Square Assocs.*, 117 Nev. 525, 527, 25 P.3d 898, 899 (2001) ("[T]he burden rests squarely upon the shoulders of a party seeking to invoke our jurisdiction to establish, to our satisfaction, that this court does in fact have jurisdiction."). In the administrative context, this court has consistently held that a district court order remanding for further substantive proceedings is not appealable. *See, e.g., Wells Fargo Bank, N.A. v. O'Brien*, 129 Nev. 679, 680-81, 310 P.3d 581, 582 (2013). The orders challenged here remand for further substantive proceedings. We do not

agree with appellants that the holding in *Wells Fargo* and accordant caselaw should not apply because the proceedings on remand have now concluded.[1] Further, the challenged orders are not amenable to a certification of finality under NRCP 54(b) because they do not finally resolve any claim or all rights and liabilities of a party to the underlying action. *See Taylor Const. Co.*, 100 Nev. at 209, 678 P.2d at 1153 ("The district court does not have the power, even when a motion for certification is unopposed, to transform an interlocutory order which does not come within the rule, into a final judgment.").

Appellants assert it is unfair to dismiss this appeal where this court previously denied a petition for a writ of mandamus challenging the orders and stated that an adequate remedy existed in the form of an appeal from the final judgment. *See City of Las Vegas v. Eighth Judicial Dist. Court*, Docket No. 82207 (Order Denying Petition, March 16, 2022). However, appellants concede that claims remain pending in the district court. Therefore, no final judgment has been entered in the underlying district court proceedings. *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."). And as discussed above, the orders are not properly certified as final under NRCP 54(b).

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[1]After the remanded proceedings were completed, appellants filed, in a new district court case, a petition for writ of mandamus and a petition for judicial review challenging the resulting denial of their special use permit. The district court order denying that petition is on appeal in Docket No. 86737.

This court "may only consider appeals authorized by statute or court rule." *Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013). Appellants do not demonstrate that any statute or court rule authorizes an appeal from the orders challenged in Docket No. 87199. Accordingly, the appeal in Docket No. 87199 is dismissed. Appellants' motions to consolidate Docket No. 87199 and Docket No. 86737 are denied. Briefing shall proceed in Docket No. 86737 in accordance with the order entered on October 16, 2023. Failure to timely file and serve the opening brief and appendix may result in the imposition of sanctions. NRAP 31(d).

It is so ORDERED.[2]

_____, J.
Herndon

_____, J.
Lee

_____, J.
Parraguirre

cc: Hon. Jerry A. Wiese, Chief Judge
Howard & Howard Attorneys PLLC
Las Vegas City Attorney
Eighth District Court Clerk

[2]This court declines appellants' request to treat the notice of appeal as a petition for a writ of mandamus. Appellants may file a petition for relief in accordance with NRAP 21, if deemed warranted. This court expresses no opinion at this time on the availability of writ relief or the merits of any such petition.