

SUMMARY STATEMENT

Crossroads Neighborhood Association v. Rick A. Erickson, Docket No. 44075

This appeal arises out of Ada County and stems from the district court's order of dismissal of Rick A. Erickson's intermediate appeal from the magistrate.

Crossroads Neighborhood Association filed a complaint against Erickson to enforce compliance with Crossroads' protective covenants and to address a number of alleged violations on Erickson's property. Erickson failed to respond with an answer, so the magistrate entered default judgment against Erickson. Erickson filed a motion to set aside the default judgment and appealed with the district court. The district court determined Erickson's motion to set aside the default judgment had not yet been resolved by the magistrate, so the district court stayed the appeal. The magistrate denied the motion to set aside the default judgment and the district court subsequently dismissed the appeal.

Erickson filed a petition for rehearing, which the district court granted. During the hearing, the district court stated it was dissolving the stay and reinstating the appeal. The district court noted in an order that it appeared a transcript had been provided. However, a review of the record indicates the transcripts were never produced. Erickson filed a request for the transcripts, but the record does not indicate the district court resolved this request.

The district court issued a written order lifting the stay and reinstating the appeal. Erickson failed to file his brief by the deadline set forth by the district court, so Crossroads filed a motion to dismiss the appeal. The district court subsequently dismissed the appeal with prejudice. Erickson filed a petition for rehearing, which the district court denied.

The Court of Appeals vacated the district court's order dismissing the intermediate appeal and remanded for further proceedings because Erickson was not provided thirty-five days to file his appellant's brief and the transcript was not produced.