



**SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY  
COURT OF APPEALS**

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**Raven Lopez and Michelle Thomas,**

and

**Olivia Lopez,**

Appellants

*In the Matter of the Estate of:*

**Lynford Edward Lopez, Sr.**

**Case No.: AP-23-3002/3003**

**ORDER VACATING OPINION AND  
ORDER ISSUED ON NOVEMBER 24,  
2023; ORDER REMANDING CASE TO  
LOWER COURT**

Before, AUSTIN, DWORKIN, and GUSS, Justices of the SRPMIC Court of Appeals.

ORDER DELIVERED BY JUSTICE AUSTIN PER CURIAM.

This appeal originated from a probate matter before the lower court: *In the Matter of the Estate of Lynford Edward Lopez, Sr.*, P-20-0035. Appellants Raven Lopez and Michelle Thomas filed their Notice of Appeal on August 21, 2023, and Appellant Olivia Lopez filed her Notice of Appeal on August 23, 2023. Both appeals pertained to an order issued by the lower court on August 1, 2023—*Under Advisement Probate Order*. The Court consolidated the appeals and accepted briefing from the parties. An *Opinion and Order* was issued on November 24, 2023 which reversed the lower court's ruling regarding jurisdiction over the Decedent's house. Appellant Michelle Thomas filed a *Motion to Reconsider and Stay* on December 4, 2023, asking this Court to reconsider its rulings in the *Opinion and Order*.

In deciding whether to grant reconsideration, the Court undertook further review of the trial record and discovered that the Appellants brought this appeal while the probate matter was still pending in the lower court. The appellate court clerk confirmed this and also indicated that the matter is set for a status hearing on January 12, 2024. This appeal is therefore an interlocutory appeal, and interlocutory appeals are not permitted under our rules of procedure. Accordingly, we must vacate the *Opinion and Order* and remand the case back to the lower court to resolve the remaining issues.

Our decision is premised on Section 4-86 of the Salt River Pima-Maricopa Indian Community Code of Ordinances (“Code”), which sets forth our jurisdiction: “The court of appeals has jurisdiction to decide the following: (1) Appeals from all final judgments or final orders of the Community court in civil matters; (2) Appeals from all judgments of conviction of the Community court in criminal matters; and (3) Special actions as defined by the Rules of Civil and Criminal Appellate Procedure.” We also have jurisdiction to issue extraordinary writs—mandamus, prohibition, and habeas corpus—pursuant to Rules 26 and 27 of the Rules of Civil Appellate Procedure (“Rule(s)”). Rule 2(b), which governs civil appeals, states: “To avoid piecemeal litigation, only final orders and judgments should be appealable.”

Therefore, it is clear under the aforementioned statute and rules that, with the exception of special actions and extraordinary writs, our appellate jurisdiction only extends to final judgments and orders. Final judgments and orders are typically issued after a case has been decided on the merits and there are no further proceedings in the lower court. The final judgment or order must resolve all issues in the case. If a party attempts to bring an appeal from a non-final order and there are further proceedings to be had in the lower court, it is an interlocutory appeal and must be dismissed. Otherwise, parties may appeal any order during a case, and because the lower court loses jurisdiction when an appeal is filed, it would cause a stop-and-go effect, disrupting proceedings and prolonging cases. *See* Section 4-85a (“Upon the acceptance of an appeal by the appellate court, the trial court shall place a stay on the matter and the trial court shall refrain from making any further decisions until the completion of the appeal, unless directed otherwise by the appellate court.”).

Our holding today, prohibiting interlocutory appeals, does not leave parties without any recourse. The Rules give parties legal mechanisms in which they can invoke appellate review of a lower court’s rulings upon meeting certain requirements. Under Rule 2(b), a party may bring a special action and seek review of a non-final order or judgment on condition that the petitioner meets the requirements set forth in the Rule. In other circumstances, a party may petition this Court for an extraordinary writ. The Rules recognize three possible writs, but leaves the door open for others: (1) writ of prohibition; (2) writ of mandamus; and (3) writ of habeas corpus. The Rules do not state the purpose for each writ or the legal standards that must be met to obtain one. Accordingly, we take this opportunity to clarify the issuance of extraordinary writs so that

uncertainty does not hinder a party from seeking appellate review. *Panzullo v. Salt River Gaming Enterprise*, APC-22-0001 at 14 (2022) (“It is one of the roles and duties of this Court to set legal standards, interpret the rules, and provide direction to the Community’s trial courts.”).

The issuance of extraordinary writs is within our discretion. We will only grant extraordinary writs in exceptional circumstances and when the petitioning party can show that it has no plain, adequate, and speedy remedy at law. To illustrate, in cases where a lower court’s action or inaction may result in damage that is irreversible, even on appeal, there is no adequate remedy at law and a party may petition this Court for an extraordinary writ. Generally, a writ of prohibition is appropriate when a lower court is adjudicating a case or deciding an issue without having the jurisdiction to do so. A writ of mandamus is appropriate when the lower court has a duty to act in accordance with a rule, law, legal precedent, or statute, and it fails to do so. Petitions for writs of prohibition and mandamus usually name as the Respondent, the lower court and the presiding judge in the case. A writ of habeas corpus is appropriate when an individual is illegally detained.

In this case, the Appellants sought to appeal an Order from the lower court while the case was still pending. Most likely this was prompted by language in the lower court’s Order stating that it was “a final appealable order for purposes of whether the Court has jurisdiction over the homesite and the home.” Indeed, the lower court resolved the jurisdictional issues in regards to the homesite lease and home, but it did not dispose of the home. The disposition of the home remains an outstanding issue that requires further proceedings. The lower court’s Order was thus not final, and the appeal that followed was an interlocutory appeal. A lower court’s declaration that an Order is a “final appealable order” does not necessarily make it so. Our appellate jurisdiction is authorized by statute, not language in an order.

Additionally, the language in the Order stating that it was “a final appealable order” seems to suggest a degree of uncertainty in the ruling. If so, the Community’s courts should keep in mind that they can also obtain appellate review of an issue before they render a decision on it. Under Section 4-92 of the Code, this Court has the authority to issue advisory opinions on certified questions involving application of state, federal, or the Community’s law. The process for certifying questions for special action appellate review is set forth in Rule 17.

This Court's *Opinion and Order*, issued on November 24, 2023, is hereby vacated because we do not have jurisdiction to hear interlocutory appeals. Accordingly, Appellant Thomas' *Motion to Reconsider and Stay* is moot. This case is remanded to the lower court so that it may resolve all outstanding issues and render a final judgment. If the parties want to appeal the final judgment based on the same arguments they presented in this appeal, they may do so and use their same briefs thereby expediting the briefing schedule. Parties may also submit new or edited briefs that raise other issues.

**SO ORDERED** this 11<sup>th</sup> day of December, 2023.

Electronically Approved 12/11/23

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/s/  
Joseph Austin, **Justice**

Electronically Approved 12/11/23

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/s/  
Judith Dworkin, **Justice**

Electronically Approved 12/11/23

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/s/  
Mary Guss, **Justice**

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