

BOKF, N.A. V. METZGAR

This memorandum opinion was not selected for publication in the New Mexico Appellate Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.

**BOKF, N.A., a National Banking
Association d/b/a BANK OF
OKLAHOMA, as Successor in
Interest by Merger to BANK OF
OKLAHOMA, N.A.,
Plaintiff-Appellee,
vs.
ROY A. METZGAR, YVONNE M.
METZGAR, and EQUIFIRST
CORPORATION,
Defendants,
and
STEVEN L. GILMORE,
Putative Intervener-Appellant.**

NO. 35,697

COURT OF APPEALS OF NEW MEXICO

November 22, 2016

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Nan G. Nash,
District Judge

COUNSEL

Leverick & Musselman, LLC, Richard M. Leverick, Albuquerque, NM, for Appellee

Steven L. Gilmore, Albuquerque, NM, Pro Se Putative Intervener-Appellant

JUDGES

LINDA M. VANZI, Judge. WE CONCUR: JAMES J. WECHSLER, Judge, M. MONICA
ZAMORA, Judge

AUTHOR: LINDA M. VANZI

MEMORANDUM OPINION

VANZI, Judge.

{1} Putative Intervener-Appellant Steven L. Gilmore (Appellant) filed the instant appeal following the entry of an order denying his motion to intervene. We previously issued a notice of proposed summary disposition in which we proposed to affirm. Appellant has filed a memorandum in opposition. After due consideration, we affirm.

{2} As we previously observed, the ruling on the motion to intervene may have constituted either a discretionary exercise of the district court's inherent authority to regulate the proceedings, or a decision on the merits. Appellant's memorandum in opposition is wholly unresponsive to our proposed summary disposition with respect to these matters. Accordingly, we adhere to our initial assessment.

{3} In his memorandum in opposition Appellant reiterates argument advanced at the district court level pursuant to Rule 1-060(B) NMRA, by which he seeks to attack the validity of a judgment and sale previously rendered in the underlying foreclosure action. [MIO 1-13] However, as we previously observed, insofar as Appellant was not a party to that action and was denied intervention, he lacks standing to advance further argument on the merits. *See, e.g., Gullo v. Brown*, 1971-NMSC-034, ¶ 8, 82 N.M. 412, 483 P.2d 293 (holding that an appellant lacked standing to attack a previously entered decree, given that he was not a party to it and had no right which was affected by it at the time of its entry). Once again, Appellant's memorandum fails to address this concern. As a result, we remain unpersuaded that the argument is properly before us.

{4} Accordingly, for the reasons stated above and in the notice of proposed summary disposition, we affirm.

{5} **IT IS SO ORDERED.**

LINDA M. VANZI, Judge

WE CONCUR:

JAMES J. WECHSLER, Judge

M. MONICA ZAMORA, Judge