

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEN ZUREK,
Appellant,
vs.
FREMER & ASSOCIATES, INC., AND
LISA FREMER-TENNER,
Respondents.

No. 43249

FILED

OCT 18 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal challenging a district court order denying NRCP 60(b) relief from a default judgment. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

The district court has broad discretion in determining whether to set aside a default judgment under NRCP 60(b).¹ Such relief is appropriate only when the applicant has demonstrated “mistake, inadvertence, surprise, or excusable neglect,” or another enumerated

¹Price v. Dunn, 106 Nev. 100, 103, 787 P.2d 785, 787 (1990); see also Epstein v. Epstein, 113 Nev. 1401, 950 P.2d 771 (1997) (discussing Price with approval).

ground for relief.² Further, NRCP 60(b) motions must be made “within a reasonable time.”³

Having reviewed the record,⁴ we conclude that the district court did not abuse its discretion when it denied appellant’s request for NRCP 60(b) relief. In particular, the court noted that the default judgment had been affirmed in a separate appeal,⁵ and it concluded that “many[,] if not all” of appellant’s arguments were thus precluded under the doctrines of res judicata, collateral estoppel, and the law of the case.⁶ With regard to any other assertions, the district court concluded, appellant failed to meet his burden to show that relief was warranted, and in any case, had untimely filed the NRCP 60(b) motion. We note that appellant’s motion was filed more than two years after we pointed out, in another related appeal, that the district court was at that time free to consider any

²NRCP 60(b); Price, 106 Nev. at 104, 787 P.2d at 787.

³NRCP 60(b).


⁴We note that appellant failed to comply with this court’s September 13, 2005 order directing him to file a proper person civil appeal statement by October 24, 2005. As a result, this appeal was resolved on the record without his civil appeal statement.

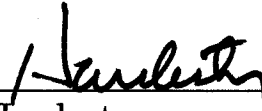
⁵See Zurek v. Fremer & Associates, Docket No. 34415 (Order Dismissing Appeal, October 20, 1999).

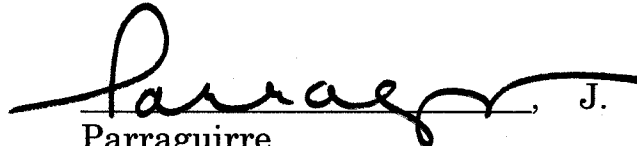
⁶See generally 11 Charles A. Wright, Arthur R. Miller and Mary K. Kane, Federal Practice and Procedure § 2873, at 439-40 (2d ed. 1995) (noting that the district court may not “flout the decision of the appellate court so far as it goes, but [may only] consider whether circumstances not previously known to either court compel a new trial”).

NRCP 60(b) motion.⁷ As the record supports the district court's conclusions, we affirm the district court's order.

It is so ORDERED.

 J.
Becker

 J.
Hardesty

 J.
Parraguirre

cc: Hon. Jessie Elizabeth Walsh, District Judge
Ken Zurek
Jimmerson Hansen
Clark County Clerk

⁷See Zurek v. Fremer & Associates, Docket No. 35046 (Order of Affirmance, July 12, 2001).