


IN THE SUPREME COURT OF THE STATE OF NEVADA

LINDA CHRISTIAN,
Appellant,
vs.
PATRICK BRETON AND BARBARA
BRETON,
Respondents.

No. 44937

FILED

JUL 03 2007

JANNETTE M. BLOOM
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying an NRCP 60(b) motion to set aside a divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; Cynthia Dianne Steel, Judge.

Respondent Patrick Benton suffers from seizures. Approximately two years into his marriage with appellant Linda Christian, Patrick suffered a seizure and was hospitalized for approximately three weeks. Thereafter, Linda filed a complaint for divorce.

In the interim, in a separate guardianship proceeding, Linda attempted to have a guardian named for Patrick. The guardianship commissioner denied Linda's petition, and she appealed (Docket No. 43889). On July 6, 2006, this court entered an order partially dismissing the appeal and affirming. In the present appeal, Linda devotes a considerable portion of her opening brief to re-stating the procedural posture of the separate district court guardianship proceeding. This

court's appellate review, however, is limited to the issues raised in the present appeal and stemming from the order denying NRCP 60(b) relief.¹

With regard to the present appeal, Linda contends that the divorce decree should be set aside because the district court failed to consider her request to determine whether Patrick was competent and, thus, whether a guardian ad litem should have been appointed to represent him in the underlying divorce proceeding. Linda further contends that by not appointing a guardian ad litem, the portions of the divorce decree that are adverse to Patrick are "void for want of jurisdiction."² Linda also contends that the district court abused its discretion when it refused to award her attorney fees and costs in the divorce decree.³

The district court has broad discretion in deciding whether to grant or deny an NRCP 60(b) motion to set aside a judgment, and this court will not disturb that decision absent an abuse of discretion.⁴ In its order denying Linda's NRCP 60(b) motion, the district court noted that it had considered Linda's numerous requests regarding a competency determination for Patrick and that it had denied her requests because it was not persuaded that Patrick required the appointment of a guardian ad

¹Carson Ready Mix v. First Nat'l Bk., 97 Nev. 474, 635 P.2d 276 (1981) (recognizing that this court may not consider matters outside of the district court record on appeal).

²Patrick has not appealed from the divorce decree.

³In the divorce proceeding, appellant sought attorney fees and costs under NRS 17.115 and NRCP 68.

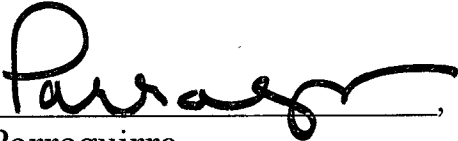
⁴Cook v. Cook, 112 Nev. 179, 912 P.2d 264 (1996).

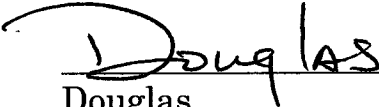
litem. The court also declined to award attorney fees and costs, as Linda sought fees and costs under NRS 17.115 and NRCP 68, and the district court determined that fees and costs were not available under those provisions, since these remedies are not available in divorce proceedings.⁵

Having reviewed the record and the parties' appellate briefs, we conclude that the district court did not abuse its discretion when it denied Linda's request for NRCP 60(b) relief and for attorney fees and costs.⁶ Accordingly, we affirm the district court's order.

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Cynthia Dianne Steel, District Judge, Family Court Division
Lester H. Berkson, Settlement Judge
Brian K. Griffith
George D. Frame
Eighth District Court Clerk

⁵Cf. NRS 125.150(3) (providing the district court with authority to award or deny attorney fees in a divorce action if they are raised in the pleadings).

⁶We have considered appellant's remaining contentions and conclude that they lack merit.