

IN THE SUPREME COURT OF THE STATE OF NEVADA

L. SEVILLE PARKS,
Appellant,
vs.
E.K. MCDANIEL; DWIGHT NEVEN;
ADAM ENDEL; DAVID MCNEELY;
DEBRA LIGHTSEY; AND DR. STEVEN
MCARTHUR,
Respondents.

No. 45056

FILED

MAY 19 2005

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

ORDER OF AFFIRMANCE

This proper person appeal challenges a district court order dismissing appellant's civil rights complaint for failure to timely serve process. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

Appellant L. Seville Parks filed an amended civil rights complaint against respondents on March 2, 2004, alleging various unconstitutional violations of prison regulations. On April 22, 2004, Parks moved the district court to issue an order granting him "additional legal copy work." Apparently, Parks had reached the \$100 maximum debt limit for prison copy work charges¹ and wanted the court to extend the credit limit so that he could serve respondents with the summonses and photocopies of the complaint.² The district court denied the motion.

On July 28, 2004, the district court ordered Parks to show cause why his complaint should not be dismissed for failure to serve process. Parks responded with a "motion for order to show cause," in

¹AR 722.01(1.5.2.3).

²Cf. NRCP 4(a) (providing that the plaintiff "shall be responsible for service of the summons and a copy of the complaint").

which he asserted that the court-issued summonses had been taken from him and again asked the court to grant him additional legal copy work so that he would be able to serve respondents with copies of the complaint. The district court denied the July 28 motion, noting that Parks could request additional summonses from the court clerk.

Finally, on August 18, 2004, Parks filed a “motion for order,” in which he requested re-issuance of the summonses and additional time to serve process. In the motion, however, Parks admitted that, even if the summonses were re-issued, he would not be able to serve process unless he were also granted additional copy work. On January 28, 2005, the district court noted that Parks is an experienced litigator, that it had been nearly eleven months since the amended complaint was filed, and that Parks could have prepared handwritten copies of his complaint. Accordingly, the court concluded that Parks had not shown good cause for his failure to timely serve process, and it dismissed Parks’ complaint. Parks appealed.


NRCP 4(i) requires a plaintiff to serve the defendants with summonses and copies of the complaint within 120 days of filing the complaint. Unless the plaintiff files a motion for an extension of time in which to serve process and demonstrates good cause as to why process was not served within the required time, the district court must dismiss without prejudice any action in which process has not been served within the 120-day deadline. This court reviews the district court’s dismissal of a complaint for failure to serve process for abuse of discretion.³

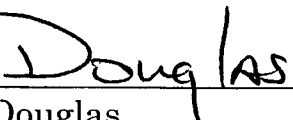
Here, the district court did not abuse its discretion in dismissing Parks’ complaint under NRCP 4(i). “Allowing inmates to pay

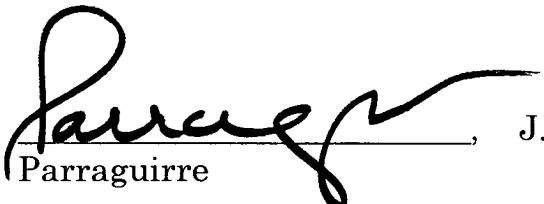
³Scrimmer v. Dist. Ct., 116 Nev. 507, 513, 998 P.2d 1190, 1193-94 (2000); Abreu v. Gilmer, 115 Nev. 308, 985 P.2d 746 (1999).

for and receive photocopies of the legal materials required by the courts is part of the 'meaningful access' to the courts that inmates are constitutionally entitled to."⁴ A prisoner's right to obtain meaningful access to the courts, however, does not include unlimited or free access to copy work, especially when suitable alternatives exist.⁵ In this instance, the district court found that Parks was afforded ample access to copy work under AR 722 and determined that he had not demonstrated any need to exceed the \$100 maximum debt limit. In particular, the court noted that there existed a suitable alternative to photocopying, as Parks could have hand-copied the complaint.⁶ Accordingly, the district court did not abuse its discretion when it determined that Parks had not demonstrated good cause for failing to serve process, and we affirm the court's order dismissing Parks' complaint under NRCP 4(i).

It is so ORDERED.


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

⁴Johnson v. Parke, 642 F.2d 377, 380 (10th Cir. 1981).

⁵Harrell v. Keohane, 621 F.2d 1059, 1061 (10th Cir. 1980); see also Bounds v. Smith, 430 U.S. 817, 824-25 (1977) (discussing the scope of prisoners' rights to access the courts); AR 722.01(1.5.2) (allowing indigent inmates to request limited copies on credit).

⁶See also AR 722.01(1.5.2.4) (providing that "[c]arbon paper should be made available for any inmate who so requests for legal purposes"). We note that there is no requirement that a plaintiff attach exhibits to the complaint.

cc: Hon. Steve L. Dobrescu, District Judge
L. Seville Parks
Attorney General Brian Sandoval/Ely
White Pine County Clerk