

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE E. REACH,
Appellant,

vs.

NEVADA ADMINISTRATORS, INC.,
A/K/A CDS COMPFIRST; CLARK
COUNTY, NEVADA; AND THE
DEPARTMENT OF ADMINISTRATION,
APPEALS DIVISION, AN AGENCY OF
THE STATE OF NEVADA,
Respondents.

No. 45636

FILED

NOV 09 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellant's petition for judicial review of three administrative orders denying workers' compensation benefits.¹ Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

This case began in district court when the appellant sought judicial review of the first of three administrative denials of workers' compensation benefits for injuries allegedly sustained while employed by Clark County in 2002. This petition for judicial review, which concerned the denial of permanent total disability benefits, was assigned to District Judge David Wall. While several matters were pending before Judge Wall, Clark County filed a preemptory challenge against him, and the case

¹The clerk of this court shall modify the caption in this case to conform to the caption on this order.

was reassigned to District Judge Valerie Adair. Appellant's petition for judicial review was ultimately dismissed by the district court.

On appeal to this court, appellant claims that the peremptory challenge of Judge Wall was untimely because Judge Wall had twice ruled on contested matters. SCR 48.1(5) permits a peremptory challenge only before a judge has ruled on a contested matter.² The first ruling of Judge Wall that appellant cites as a contested matter is a minute entry taking the hearing of the case off calendar. This minute entry states that the motion was placed on calendar in error. Appellant next alleges that the district court ruled on a contested matter by taking no action on appellant's motion to hold his petition in abeyance while he had surgery. Clark County did not oppose this motion, and no order was entered concerning this motion. This court has recognized that preliminary unopposed motions and orders entered on stipulation of the parties are not contested rulings.³ And, the Eighth Judicial District Court Rules specifically state that failure to file a written opposition to a motion may be considered consent to the requested relief or action.⁴

Applying that guidance to this appeal, we conclude that the first ruling by Judge Wall was a procedural matter, taking off calendar the

²Although SCR 48.1 was amended effective February 1, 2007, the portion of SCR 48.1 relevant to this appeal was not changed by the amendment.

³State, Dept. Mtr. Veh. v. Dist. Ct., 113 Nev. 1338, 948 P.2d 261 (1997).

⁴EDCR 2.20(b). Although EDCR 2.20 was amended effective July 2, 2007, the portion of EDCR 2.20 relevant to this appeal was not changed by the amendment.

hearing that had been scheduled in error. The second alleged ruling did not involve any actual action on the part of the district court. At most the court and the opposing party concurred with appellant's request for a brief stay in the case. The actions and inaction by Judge Wall that appellant relies on to support his argument were procedural in nature and were unopposed. Accordingly, we conclude that the peremptory challenge of Judge Wall was properly exercised.

Appellant also claims that the district court improperly granted a one-week continuance of the hearing on his consolidated petitions and that she acted with prejudice against him at the hearing. The record does not contain a transcript of what occurred at either the continuation of the hearing or the hearing, but the minutes of the hearing reflect no misconduct on the part of the district court judge. From the record before us, we perceive no error in how the district court handled the hearing or the process used in disposing of this case.⁵

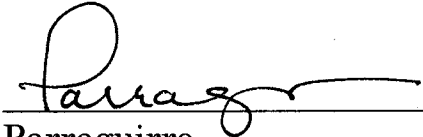
Appellant has accused Clark County officials and attorneys of a wide ranging criminal conspiracy against him and referred to some judges as "miscreants". Unsupported allegations of criminal activities and calling people unflattering names is totally inappropriate. Appellant is admonished for this conduct.


⁵Additionally, when evidence on which a district court's judgment rests is not properly included in the record on appeal, this court assumes that the record supports the court's actions. See Stover v. Las Vegas Int'l Country Club, 95 Nev. 66, 589 P.2d 671 (1979).

Accordingly, we affirm the district court's order dismissing appellant's petitions for judicial review.⁶

It is so ORDERED.⁷


_____, J.
Hardesty


_____, J.
Parraguirre


_____, Sr. J.
Rose

cc: Hon. Valerie Adair, District Judge
George E. Reach
Clark County District Attorney David J. Roger/Civil Division
Eighth District Court Clerk

⁶Having considered all the claims raised by appellant, we conclude that his remaining contentions are without merit.

⁷The Honorable Robert E. Rose, Senior Justice, participated in the decision of this matter under a general order of assignment entered on July 6, 2007.