

IN THE SUPREME COURT OF THE STATE OF NEVADA

PRESTON GRIFF,
Appellant,
vs.
BILL YOUNG, SHERIFF, CLARK
COUNTY; CLARK COUNTY
DETENTION CENTER; COUNTY OF
CLARK; AND LAS VEGAS
METROPOLITAN POLICE
DEPARTMENT,
Respondents.

No. 45929

FILED

DEC 07 2006

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellant's complaint with prejudice for failure to comply with NRCP 16.1. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge.

Appellant filed a complaint in the Eighth Judicial District Court in March 2003, alleging that while he was an inmate in Nevada, he sustained personal injuries to his leg when respondents required him to work at purportedly inappropriate jobs, while appellant's leg was broken and healing in a cast. Respondents filed their answer in December 2003, and it appears that appellant did not pursue his case any further for about nineteen months. It is undisputed that appellant neither conducted an

NRCP 16.1(b) conference within 180 days, nor filed a case conference report within 240 days, after respondents' appearance.

On June 22, 2005, appellant contacted respondents, requesting an NRCP 16.1 conference; according to appellant, the conference was set for July 6, 2005. Respondents claim that, although they agreed to discuss the NRCP 16.1 conference with appellant, they specifically informed appellant that they did not waive any defenses regarding the NRCP 16.1(e) delay. On June 29, 2005, respondents filed a motion to dismiss the action under NRCP 16.1(e)(1) and (2). The district court granted the motion, and this appeal followed.

This court has previously recognized the district court's discretion to dismiss a case without prejudice for failure to comply with the NRCP 16.1 requirements.¹ When an early case conference is not held within 180 days after a defendant's appearance, the case may be dismissed without prejudice, "unless there are compelling and extraordinary circumstances for a continuance beyond this period."² Further, a complaint may be dismissed without prejudice if the plaintiff does not file a case conference report within 240 days after a defendant's appearance.³

Upon review of the record and appellant's civil proper person statement, we conclude that the district court did not abuse its discretion

¹See Dougan v. Gustaveson, 108 Nev. 517, 835 P.2d 795 (1992), abrogated on other grounds by Scrimmer v. Dist. Ct., 116 Nev. 507, 998 P.2d 1190 (2000).

²NRCP 16.1(e)(1).

³NRCP 16.1(e)(2).

when it dismissed appellant's complaint under NRCP 16.1(e).⁴
Accordingly, we affirm the district court's order.

It is so ORDERED.⁵

Becker, J.
Becker

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Nancy M. Saitta, District Judge
Preston Griff
Clark County District Attorney David J. Roger/Civil Division
Clark County Clerk

⁴Although the district court improperly dismissed appellant's complaint with prejudice instead of without prejudice, as stated in NRCP 16.1, this error does not warrant reversal, since the statute of limitations had already run at the time the district court dismissed appellant's complaint.

⁵In light of this order we deny as moot respondents' motion to dismiss filed on November 8, 2006.