

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF  
MARY N. RANDOLPH.

No. 47733

WILLIAM JAMES BERRY, SR.,  
Appellant,  
vs.  
WILLIAM JAMES BERRY, JR.,  
Respondent.

FILED

JAN 31 2007

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying a motion for relief under NRCP 60(b). Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge.

This matter arose when respondent William James Berry, Jr. petitioned the district court to set aside the estate of his deceased grandmother without administration.<sup>1</sup> The court granted the unopposed petition and set aside the estate—the proceeds of a pension account—to William Jr. and the decedent's two other grandsons. Soon after, appellant William James Berry, Sr. (the deceased's son and William Jr.'s father) moved the court to vacate its order setting aside the estate, claiming that he was the direct heir and that he had not been notified of the petition.

<sup>1</sup>See NRS 146.070(2).

In an order dated November 15, 2005, the district court vacated its order setting aside the estate and directed interested parties to file new petitions regarding the estate's administration. In that order, the court also directed William Jr. and the other recipients of the pension proceeds to return that amount to the estate. Subsequently, William Jr. moved the court to vacate its November 15 order, asserting that the pension benefits had ceased upon death and that, consequently, no funds had been distributed to the estate or to him and the other grandsons. He attached to his motion a letter and other documents from the pension trust supporting his assertions. Also attached to his motion was proof of the motion's service on William Sr.

On January 9, 2006, the district court granted William Jr.'s motion and vacated the portion of the November 15 order directing William Jr. and the other grandsons to return the pension funds, determining that the motion's supporting documents were valid and accurate and that, therefore, no funds had been transferred. William Sr., claiming that he had not received a copy of William Jr.'s motion and supporting documents, moved to strike the district court's order. Apparently, the probate commissioner orally denied William Sr.'s motion to strike, but no such written order was entered. On February 17, 2006, the estate was set aside to William Sr.

A few months later, William Sr. moved, under NRCP 60(b), for relief from the January 9 order vacating the portion of the November 15 order that directed William Jr. and the other grandsons to return the pension funds, again asserting that he had not been provided with appropriate notice of William Jr.'s motion. On July 7, 2006, the district court denied William Sr.'s NRCP 60(b) motion, concluding that the motion

was moot because the estate had already been set aside to William Sr. “and all prior orders were previously vacated.” William Sr. timely appealed.

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.<sup>2</sup> Even if the district court abused its discretion in reaching a particular conclusion, however, we will affirm the court’s order if the court, despite drawing the inappropriate conclusion, reached the correct result.<sup>3</sup>

Here, although the district court incorrectly determined that “all” previous orders had been vacated and that the matter was moot because the estate had been set aside to William Sr., the court properly denied William Sr.’s motion for NRCP 60(b) relief. NRCP 60(b) applies only to final judgments, and cannot be used to obtain relief from an interlocutory order like the one vacating the order directing William Jr. and the other grandsons to return the pension funds.<sup>4</sup> Accordingly, the

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<sup>2</sup>Cook v. Cook, 112 Nev. 179, 912 P.2d 264 (1996).

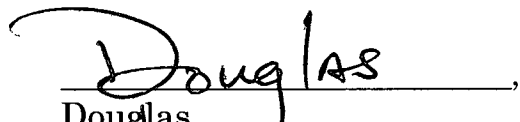
<sup>3</sup>See Barry v. Lindner, 119 Nev. 661, 670, 81 P.3d 537, 543 (2003) (citing, among other cases, Rosenstein v. Steele, 103 Nev. 571, 575, 747 P.2d 230, 233 (1987)).

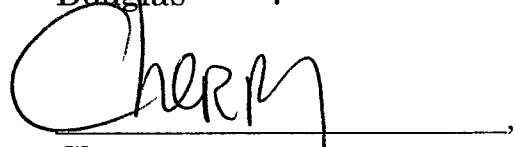
<sup>4</sup>Barry, 119 Nev. at 669, 81 P.3d at 542-43; Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000) (describing a final order as one that disposes of all the issues presented in the case, leaving nothing for the future consideration of the court except for post-judgment issues like attorney fees and costs); see also NRS 155.190 (listing appealable determinations in probate matters).

district court's order denying NRCP 60(b) relief was proper, and therefore, it is affirmed.

It is so ORDERED.<sup>5</sup>

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Kathy A. Hardcastle, District Judge  
William James Berry Sr.  
William James Berry Jr.  
Eighth District Court Clerk

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<sup>5</sup>In light of this order, we deny as moot William Sr.'s motion for relief from the prison's copy fee debt limit.