

IN THE SUPREME COURT OF THE STATE OF NEVADA

RUSSEL S. KEITHLEY, A/K/A  
RUSSELL STEWART KEITHLEY,  
A/K/A RUSSELL KETHLY,  
Appellant,  
vs.  
RUSSEL JOSEPH KEITHLEY AND  
DIANE KEITHLEY, AS PARENTS ON  
BEHALF OF J.K, A MINOR,  
Respondents.

No. 47803

**FILED**

**JAN 11 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 judgment in a tort action. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

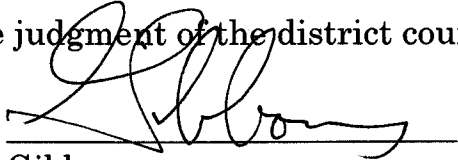
Respondents Russel Joseph Keithley and Diane Keithley (the Keithleys) filed, on behalf of their daughter, a complaint against appellant Russel S. Keithley (Russel), seeking damages based on Russel's conviction, pursuant to a guilty plea, for attempted lewdness with their daughter, a child under fourteen. Russel answered the complaint, generally denying the allegations. The Keithleys then moved for judgment on the pleadings. Russel opposed the motion, arguing that the Keithleys were relying on matters outside of the pleadings and that judgment could not be entered until discovery was completed. The Keithleys replied, asserting that Russel had made no discovery request and that, at any rate, there were no genuine issues of fact, entitling them to summary judgment.

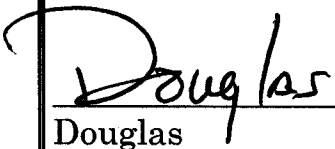
Russel later filed a motion to quash the summons, arguing that its service was not effective, since the summons and complaint were mailed, rather than personally served upon him. The Keithleys opposed


the motion, noting that Russel had voluntarily made an appearance, making the issue of notice moot. The district court, after considering the pleadings and Russel's conviction, entered summary judgment in favor of the Keithleys. Russel appeals.

Objections to personal jurisdiction or service of process are waived if not raised as a defense in an answer or raised in a timely pre-answer motion.<sup>1</sup> Thus, to avoid waiving an insufficient service of process defense, the defendant must generally raise that defense either in his answer or in a pre-answer motion.<sup>2</sup> Here, Russel answered the complaint, before making any motion, and he did not raise an insufficient service of process defense in that answer. Thus, he waived any challenge to service of process. Accordingly, because the district court properly entered summary judgment in favor of the Keithleys,<sup>3</sup> we

ORDER the judgment of the district court AFFIRMED.

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

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

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

<sup>1</sup>See Fritz Hansen A/S v. Dist. Ct., 116 Nev. 650, 656, 6 P.3d 982, 986 (2000); NRCF 12(g) and (h)(1).

<sup>2</sup>See Fritz Hansen, 116 Nev. at 656-57, 6 P.3d at 986.

<sup>3</sup>See NRS 41.133 (providing that, if an offender has been convicted of a crime that resulted in the victim's injury, "the judgment of conviction is conclusive evidence of all facts necessary to impose civil liability for the injury"); NRS 41.690 (providing that, under certain circumstances, victims of certain sex crimes may recover punitive damages).

cc: Hon. Kenneth C. Cory, District Judge  
Russel S. Keithley  
David R. Ford  
Clark County Clerk