

IN THE SUPREME COURT OF THE STATE OF NEVADA

BERNARD DAMIAN; KATHERINE
ORPIANO; EDUARDO DARANG;
TERESITA DARANG; AND LEONIDA
ORPIANO,
Appellants,
vs.
BEVERLY COCHRAN AND TONI JO
TASCHNER COCHRAN,
Respondents.

No. 50169

FILED

JUN 24 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing appellants' complaint under NRCP 4(i) for failure to timely serve process.¹ Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

The parties were involved in an automobile accident. Appellants filed their personal injury complaint for damages on August 16, 2006, and the summons for service issued on the same date. Without seeking an extension of time to serve process, appellants had another summons issued on February 8, 2007, and thereafter completed service of process on May 22, 2007. Respondents moved to quash service and dismiss the lawsuit for failure to timely serve process under NRCP 4(i). The district court granted respondents' motion and this appeal followed.

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

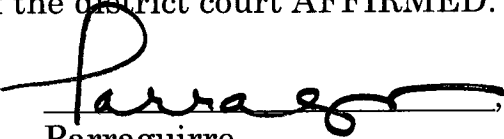
¹Pursuant to NRAP 34(f), we have determined that oral argument is not warranted in this appeal.

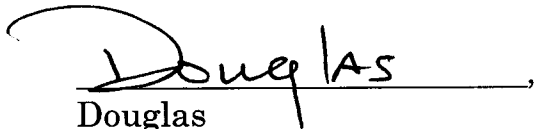
which to serve process and demonstrates good cause as to why process was not served within the required time, the district court must dismiss without prejudice any action in which process has not been served within the 120-day deadline. We review the district court's dismissal of a complaint for failure to serve process for an abuse of discretion.²

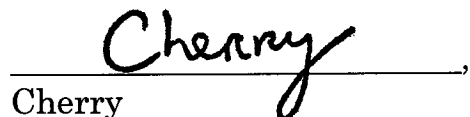
Appellants argue that the district court abused its discretion when it granted respondents' motion to quash service of process and dismiss the complaint because appellants' late service was justified by excusable neglect. Thus, according to appellants, an extension of time to complete service of the newly issued summons was warranted, despite their failure to seek an extension of time to serve the original summons.

Having reviewed the record and considered the parties' arguments, we conclude that the district court did not abuse its discretion when it granted respondents' motion to quash service of process and dismiss appellants' complaint. Accordingly, we

ORDER the order of the district court AFFIRMED.


Parraguirre J.


Douglas J.


Cherry J.

²Scrimmer 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).

cc: Hon. Douglas W. Herndon, District Judge
William F. Buchanan, Settlement Judge
John S. Rogers
Arneson & Associates
Eighth District Court Clerk