

IN THE SUPREME COURT OF THE STATE OF NEVADA

DUSTIN WILLIAMS,  
Appellant,  
vs.  
SHERI YEAGER,  
Respondent.

No. 50214

**FILED**

MAR 13 2008  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This proper person appeal challenges a district court judgment entered on a jury verdict in a personal injury action. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Appellant Dustin Williams attacked respondent Sheri Yeager with a martial arts weapon. Subsequently, Yeager filed suit against Williams, then a minor, and his father for assault, battery, and negligence.<sup>1</sup> Williams filed for bankruptcy and the action against him was stayed, but the action against his father proceeded to judgment.<sup>2</sup> Thereafter, Williams' bankruptcy stay was lifted and a default was entered against Williams and the action proceeded to a jury trial concerning only the amount of damages owed by Williams. The jury

---

<sup>1</sup>One of the claims against the father alleged that he was vicariously liable for Williams' actions.

<sup>2</sup>A default was entered as a sanction against the father for not attending depositions. The judgment against him awarded Yeager, among other things, \$10,000.00 in special and general damages, pursuant to NRS 41.470.

18-00284

ultimately found that Williams owed Yeager \$2,321,289.25, for her damages. The district court entered judgment in that amount, including daily interest in the amount of \$651.86. This appeal followed.

On appeal, Williams argues that the judgment should be set aside because he did not receive notice of the jury trial date. Yeager responds that Williams had sufficient notice of the proceedings in the underlying matter and cannot complain of an error when he chose not to participate in the litigation.

Yeager's argument notwithstanding, due process requires that a party receive notice of the proceeding and an opportunity to be heard.<sup>3</sup> The notice required under due process must be "reasonably calculated" to inform interested parties "of the pendency of the action and afford them an opportunity to present their objections."<sup>4</sup> The reasonableness of the notice required to be given depends on the particular circumstances.<sup>5</sup>

Having reviewed the record, the parties' appellate arguments, and respondent's appendix, we conclude that the judgment entered against Williams must be reversed. Williams was not provided with notice of the jury trial date as required by WDCR 4(9), because Yeager failed to serve Williams with a copy of the application for setting endorsed by the court with the time and date for trial. Although Williams was provided

---

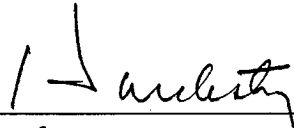
<sup>3</sup>LaChance v. Erickson, 522 U.S. 262, 266 (1998); see also Brown v. Brown, 96 Nev. 713, 715-16, 615 P.2d 962, 964 (1980).

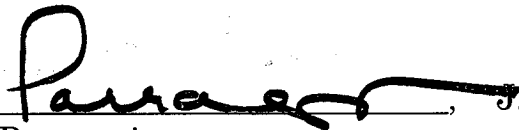
<sup>4</sup>Browning v. Dixon, 114 Nev. 213, 217, 954 P.2d 741, 743 (1998) (quoting Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1949)).

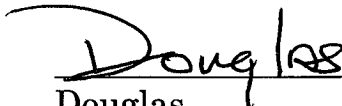
<sup>5</sup>Id.

with notice of every other event in the underlying matter, he was not given notice of the jury trial date. Accordingly, we reverse the district court's judgment entered against Williams and remand this case for further proceedings consistent with this order.<sup>6</sup>

It is so ORDERED.<sup>7</sup>

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

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

---

<sup>6</sup>We question how the prove-up hearing concerning damages could be handled as a short jury trial when the procedures to enter the short trial program pursuant to NRST 4 were not followed. We further question why final judgment was entered in an amount that exceeds \$50,000, when NSTR 26 provides that a judgment arising from the short trial program is capped at that amount.

<sup>7</sup>In light of this order, we need not address the other arguments raised by appellant.

We admonish attorney Paul Malikowski for his failure to comply with this court's order directing him to file a response with points and authorities, and we note that, in the future, similar disregard for this court's directives may result in the imposition of sanctions. See NRAP 28(b).

cc: Hon. Connie J. Steinheimer, District Judge  
Dustin Williams  
Paul J. Malikowski  
Washoe District Court Clerk