

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRUCE MAYO ENNIS,  
Appellant,

vs.

THE STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS;  
JACKIE CRAWFORD; TED D'AMICO;  
AND ADAM ENDEL,  
Respondents.

No. 50800

**FILED**

JUL 11 2008

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order granting damages in part and denying damages in part. Seventh Judicial District Court, White Pine County; Dan L. Papez, Judge.

Appellant is an inmate at Ely State Prison and was previously incarcerated at Lovelock Correctional Center. While at Lovelock, appellant was charged with attempted murder of his cellmate. After a disciplinary hearing on the matter, appellant was, among other things, referred for criminal prosecution and ordered to pay restitution in an undetermined amount for the medical expenses incurred by the Department of Corrections in treating the injuries appellant inflicted on his cellmate. Appellant's criminal case resulted in a guilty plea to a battery charge. Along with an additional prison sentence, appellant was ordered to pay restitution in the amount of \$28,295.

Sometime following resolution of the criminal matter, the Department of Corrections placed a lien on appellant's inmate account for \$35,111.60. Appellant then filed the present action, challenging the increased amount of restitution charged to his account, in addition to challenging the amount of money taken from his account and raising other claims for relief that are not the subject of this appeal.

The district court ultimately determined that the criminal case's restitution amount of \$28,295 constituted the maximum properly established amount that the Department of Corrections could charge appellant. The district court further concluded that if the Department of Corrections sought to impose a lien for more than this amount, in order to cover the full amount it spent on the cellmate's injuries, it needed to hold another hearing to provide appellant with his necessary due process rights. Additionally, the district court determined that the Department of Corrections deducted from appellant's prison account more than it was entitled to under its internal operating procedures, and the district court therefore awarded damages to appellant in the amount of \$50.19. The district court denied appellant recovery of damages for several claims not raised in this appeal. Finally, the district court denied appellant's request for an award of costs incurred in pursuing the court action.

On appeal, appellant asserts that the district court should have stricken the entire restitution amount because it constituted a double recovery, claiming that it was a charge separate from and in addition to the restitution charge from his criminal case. Next, appellant claims the district court improperly granted recovery of only \$50.19 that the Department of Corrections deducted from his prison account, contending he was entitled to recovery of the full amount deducted. Lastly, appellant claims that the district court should have awarded him costs under either NRS 18.020 or NRS 18.050.

This court reviews questions of law, including those involving statutory construction, de novo.<sup>1</sup> We defer to the district court's fact-based

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<sup>1</sup>Martinez v. Maruszczak, 123 Nev. \_\_\_, \_\_\_, 168 P.3d 720, 724 (2007).

determinations if substantial evidence supports the findings.<sup>2</sup> In addition, we “will not reverse an order or judgment unless error is affirmatively shown.”<sup>3</sup> A decision by the district court regarding costs is reviewed for an abuse of discretion.<sup>4</sup>

Having reviewed the proper person appeal statement and the record on appeal, we affirm the district court’s order to the extent that it decided that the \$28,295 restitution amount should not be stricken. Appellant incorrectly argues that this amount should be stricken because it constitutes double recovery. The district court did not determine that this amount could be assessed in addition to the amount assessed in the criminal proceedings. The district court simply clarified that this was the amount established in the criminal proceeding and, if the Department of Corrections sought to impose additional restitution charges, it must first conduct a hearing to provide appellant his due process rights. As no double recovery is involved, we affirm the district court’s order on this issue.

We also affirm the portion of the district court’s order concluding that appellant was entitled to recovery of \$50.19 deducted from his prison account, but not the full amount deducted. Appellant does not deny that he owes restitution, nor does he challenge that the Department of Corrections is entitled to deductions from his prison account to pay the restitution. Appellant only argues that, because the Department of

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<sup>2</sup>Id.

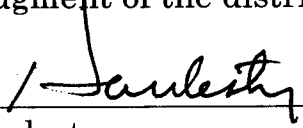
<sup>3</sup>Schwartz v. Estate of Greenspun, 110 Nev. 1042, 1051, 881 P.2d 638, 644 (1994).

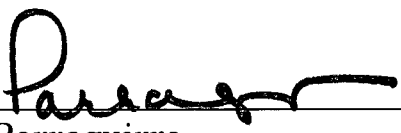
<sup>4</sup>Borgerson v. Scanlon, 117 Nev. 216, 221, 19 P.3d 236, 239 (2001).

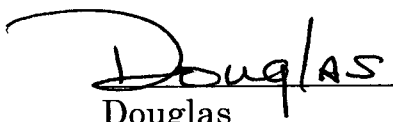
Corrections improperly deducted more than allowed, he should be reimbursed everything deducted. This argument lacks merit and we therefore affirm the district court's order regarding this claim.

Finally, we affirm the district court's order denying costs. NRS 18.020(3) requires an award of costs to the prevailing party in actions which seek to recover more than \$2,500. A plaintiff is a prevailing party "if it succeeds on any significant issue in litigation which achieves some of the benefit i[t] sought in bringing the suit."<sup>5</sup> The district court properly concluded that appellant did not prevail on any significant issue because this action resolved the claim of double recovery with restitution assessed in the criminal proceedings but did not determine the amount of restitution in the first instance. Therefore, the clarification of double recovery could not provide the basis for an award of costs. Costs under NRS 18.050 are within the discretion of the district court. We conclude that the district court did not abuse its discretion in determining not to award costs. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

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<sup>5</sup>Hornwood v. Smith's Food King, 105 Nev. 188, 192, 772 P.2d 1284, 1287 (1989) (internal quotations omitted).

cc: Hon. Dan L. Papez, District Judge  
Bruce Mayo Ennis  
Attorney General Catherine Cortez Masto/Carson City  
White Pine County Clerk