

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID A. EGGBRECHT,
Appellant,
vs.
WILLIAM R. KENDALL,
Respondent.

No. 51235

FILED

SEP 05 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 summary judgment in a legal malpractice action. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Appellant hired respondent to represent him in a personal injury case. After respondent withdrew from representing appellant, appellant proceeded in proper person and lost at trial on August 31, 2005. Subsequently, on December 9, 2005, the district court awarded attorney fees against appellant. On September 28, 2007, appellant filed a professional malpractice action against respondent alleging that respondent's withdrawal caused appellant to lose his case at trial resulting in alleged damages of \$1.8 million. The district court granted respondent's motion for summary judgment, concluding that appellant's claims were barred by NRS 11.207's two-year statute of limitations. This appeal followed.

We review a district court's order granting summary judgment de novo, without deference to the lower court's findings.¹ The moving party is entitled to summary judgment when the pleadings and other evidence on file demonstrate that there are no remaining issues of material fact and the party is entitled to judgment as matter of law.² When we review a summary judgment, we must consider the evidence, and any reasonable inferences drawn from it, in a light most favorable to the nonmoving party.³

NRS 11.207 states in part that a professional malpractice action against an attorney must be commenced "within 2 years after the plaintiff discovers or through the use of reasonable diligence should have discovered the material facts which constitute the cause of action." Because appellant sustained his alleged damages at the trial's end on August 31, 2005, appellant was aware or should have been aware of the material facts constituting his claim. Accordingly, the two-year statute of limitations began to run on August 31, 2005. Therefore, appellant's complaint filed on September 28, 2007, after the expiration of the two-year period, is barred by NRS 11.207.

Having reviewed appellant's civil proper person appeal statement, respondent's response, and the record on appeal, we conclude

¹Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

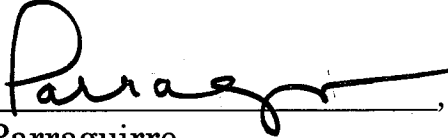
²Id.; NRCp 56(c).

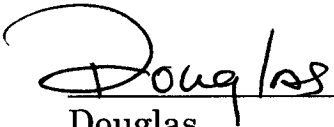
³Wood, 121 Nev. at 729, 121 P.3d at 1029.

that the district court did not err in granting summary judgment to respondent. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Steven P. Elliott, District Judge
David A. Eggebrecht
Piscevich & Fenner
Washoe District Court Clerk