

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDREA J. LOPEZ,
Appellant,
vs.
SUNTECK TRANSPORT CO., INC., A
FLORIDA CORPORATION,
Respondent.

No. 51507

FILED

NOV 13 2009

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

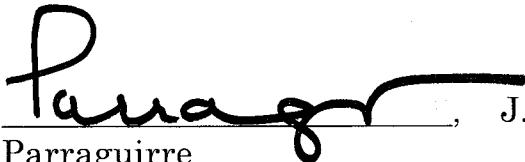
This is an appeal from a district court order denying an NRCP 60(b) motion for relief from a judgment. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

NRCP 60(b)(3) allows the district court to relieve a party from a final judgment due to “fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation or other misconduct of an adverse party. . . .” (emphasis added). See also NC-DSH, Inc. v. Garner, 125 Nev. ___, ___, P.3d ___, ___ (Adv. Op. No. 50, October 29, 2009) (noting that “NRCP 60(b)(3) by its terms only applies to fraud of an ‘adverse party’”) (emphasis in original). On appeal, appellant Andrea Lopez contends that the district court abused its discretion in denying her motion for NRCP 60(b)(3) relief from the judgment based on fraud.

Here, the alleged fraud was committed by Nicholas Brokenshire, Lopez’s codefendant. In responding to Lopez’s arguments on appeal, respondent Sunteck Transport Company asserts that Lopez was not entitled to relief under NRCP 60(b)(3) because Brokenshire was her codefendant, and thus, was not an adverse party to Lopez. Lopez fails to respond to or otherwise address this contention and therefore apparently concedes this point. As a result, because the alleged fraud

was not committed by an adverse party, we conclude that the district court did not abuse its discretion in denying Lopez's motion for NRCP 60(b)(3) relief. NC-DSH, 125 Nev. at ___, ___ P.3d at ___. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Susan Johnson, District Judge
Lester H. Berkson, Settlement Judge
Cremen Law Offices
Robert A. Massi, Ltd.
Eighth District Court Clerk