

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN K. REYNOLDS,  
Appellant,  
vs.  
DILLARDS; SECURITY GUARD 1; AND  
SECURITY GUARD 2,  
Respondents.

No. 51598

**FILED**

JAN 09 2009

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

ORDER OF REVERSAL AND REMAND

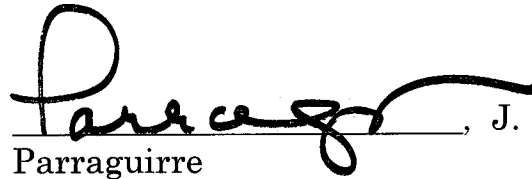
This is a proper person appeal from a district court order dismissing appellant's complaint in a tort action. Eighth Judicial District Court, Clark County; Kathy Hardcastle, Judge.

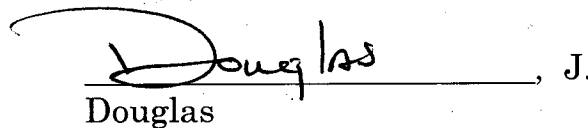
On March 17, 2008, appellant filed a complaint against respondents alleging that respondents had caused appellant personal injuries. Specifically, appellant claims that respondents caused appellant personal injuries and aggravated existing injuries when respondents took appellant into custody at Dillard's department store on December 9, 2005. The district court issued an order to show cause why appellant's complaint should not be dismissed for failure to state a claim, as appellant's complaint involved a civil action stemming from appellant's arrest. Appellant filed an answer. On April 28, 2008, the court entered an order dismissing appellant's complaint.

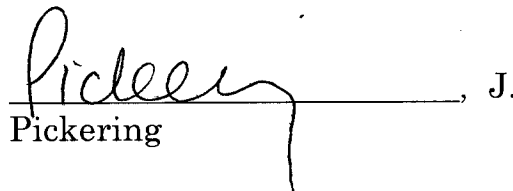
In the district court's order, the court determined that appellant's complaint involved a civil action stemming from his arrest and appellant had not shown any proof that he has received post-conviction relief or otherwise demonstrated that his conviction or sentence was based on anything other than his own conduct. Based on Morgano v. Smith, the

district court reasoned that appellant's action therefore could not stand. 110 Nev. 1025, 879 P.2d 735 (1994). However, Morgano concerned a legal malpractice action, in which, to demonstrate damages and causation, the plaintiff would have had to establish that his conviction was the result of the defendant's malpractice, not the plaintiff's own criminal conduct. Id. Here, however, appellant's complaint involved a personal injury action based on appellant's alleged treatment at the hands of defendants in the course of his arrest. To prevail on his claims, appellant need not demonstrate that his conviction was improper. The district court therefore erred in dismissing appellant's complaint on this basis. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

  
Parraguirre, J.

  
Douglas, J.

  
Pickering, J.

cc: Hon. Kathy A. Hardcastle, District Judge  
Brian K. Reynolds  
Eighth District Court Clerk