

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBI JO DOCKINS,
Appellant,
vs.
ALLEN JACKSON LYNN,
Respondent.

No. 52031

FILED

DEC 10 2009

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing the underlying action based on appellant's failure to comply with NRCP 16.1 and a post-judgment order denying a motion for NRCP 60(b) relief in a tort action. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

In this case, the district court's order of dismissal was expressly based on appellant's failure to comply with the provisions of NRCP 16.1. NRCP 16.1(e)(3) provides that

[i]f an attorney fails to reasonably comply with any provision of this rule . . . the court, upon motion or upon its own initiative, shall impose upon a party or a party's attorney, or both, appropriate sanctions in regard to the failure(s) as are just, including the following: (A) any of the sanctions available pursuant to Rule 37(b)(2)[.]

Among the sanctions available under NRCP 37(b)(2) is an order dismissing the action. NRCP 37(b)(2)(C). Thus, NRCP 16.1(e)(3) makes the imposition of some sanction for a violation of NRCP 16.1 mandatory, but leaves the decision as to what sanction should be imposed up to the

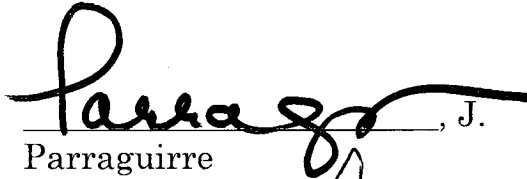
district court. See Village League v. State, Bd. of Equalization, 124 Nev. ___, ___, 194 P.3d 1254, 1260 (2008) (noting, in interpreting NRS 361.380(1), that the use of the word “shall” generally makes the action mandatory).

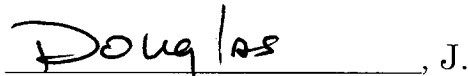
Here, the district court determined that the appropriate sanction for appellant’s failure to comply with NRCP 16.1 was the dismissal of appellant’s complaint, which, as noted above, is among the sanctions available under NRCP 37(b)(2). Having reviewed the record on appeal and considered all of the arguments made in the parties’ briefs, we find no impropriety in the district court’s decision to dismiss the underlying action. See NRCP 16.1(e)(3) (mandating the imposition of sanctions against a party, the party’s attorney, or both, if an attorney fails to reasonably comply with any provision of NRCP 16.1, but leaving the decision as to which sanction should be imposed from amongst several options, including any of the sanctions available under NRCP 37(b)(2), to the district court); NRCP 37(b)(2)(C) (providing for the dismissal of an action as one of the available sanctions under NRCP 37(b)(2)).

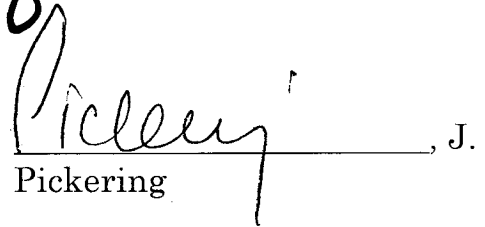
With regard to appellant’s challenge to the district court’s denial of her NRCP 60(b) motion, we note that the district court has wide discretion to determine whether an NRCP 60(b) motion for relief from a judgment should be granted or denied. See Bianchi v. Bank of America, 124 Nev. ___, 186 P.3d 890 (2008). Having reviewed the record and considered all of the arguments made in the parties’ briefs, we find no

abuse of discretion in the court's denial of appellant's motion. Id.
Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


Parraguirre, J.


Douglas, J.


Pickering, J.

cc: Hon. Valerie Adair, District Judge
Thomas J. Tanksley, Settlement Judge
Donn W. Prokopius, Chtd.
Potter Law Offices
Law Offices of Douglas R. Johnson
Eighth District Court Clerk

¹Although we affirm the district court's dismissal of the underlying action and the denial of appellant's motion for NRCP 60(b) relief, we conclude that the imposition of sanctions requested by respondent for appellant's alleged purposeful omission of documents from the record on appeal is not warranted. Accordingly, we deny respondent's motion for sanctions.