

IN THE SUPREME COURT OF THE STATE OF NEVADA

JIMMY EARL DOWNS,  
Appellant,  
vs.  
ANDREW NAPOLITANO, JR. AND  
CHRISTINE NAPOLITANO,  
Respondents.

No. 52542

**FILED**

JAN 09 2009

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellant's complaint in a contract action. First Judicial District Court, Carson City; James Todd Russell, Judge.

Appellant Jimmy Downs, who is a Nevada inmate, was allegedly hired by Andrew Napolitano and his mother, Christine Napolitano, on a contingency fee basis, to file and pursue a medical malpractice action on their behalf. After the Napolitanos apparently obtained a \$100,000 judgment in that medical malpractice action, Downs demanded his contingency fee payment of \$10,000. When the Napolitanos failed to pay, it appears that Downs filed an action in justice court against Christine only. According to the district court record, all the parties represented to the district court that Downs' justice court action was dismissed.<sup>1</sup>

Subsequently, Downs filed the underlying action alleging that the Napolitanos breached their contract, unlawfully stole Downs' legal services, and obtained his legal services by false pretenses. Christine filed

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<sup>1</sup>Although Downs concedes that his justice court action was dismissed, he contends that it is not a valid final judgment because no written order has been entered by the justice court.

a motion to dismiss arguing that the doctrine of res judicata prohibited the district court from considering Downs' complaint because it had been previously dismissed by the justice court for failure to state a claim upon which relief can be granted. Downs opposed the motion to dismiss arguing that the doctrine of res judicata was not applicable because the justice court had not entered a final written order dismissing Downs' complaint. Andrew filed an answer in which he pleaded as an affirmative defense the failure of Downs' complaint to state a claim upon which relief can be granted.

The district court granted Christine's motion to dismiss on the basis that the justice court's dismissal of Downs' complaint was dispositive of all the claims asserted against Christine. Thus, according to the district court, Downs' claims against Christine were barred by the doctrine of res judicata. Further, the district court found that, because Downs engaged in the unauthorized practice of law, he could not recover from Andrew or Christine. Therefore, Downs' complaint was dismissed against Andrew and Christine for failure to state a claim upon which relief can be granted. Downs filed this timely appeal.


We conclude that we need address only the district court's second basis for dismissal, as it is dispositive. On this point, Downs contends that the district court improperly dismissed his complaint when it concluded that Downs' complaint could not state a claim upon which relief can be granted. Specifically, Downs engaged in the unauthorized practice of law and therefore could not maintain an action to recover compensation for such unauthorized services.

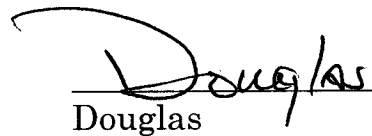
Under NRS 7.285(1)(a), an individual shall not practice law in Nevada if the individual is not an active member of Nevada's State Bar or otherwise authorized to practice law in Nevada. A violation of this statute

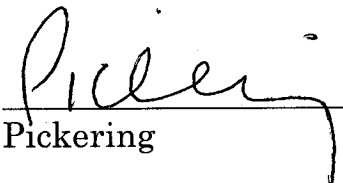
is punishable as a misdemeanor. NRS 7.285(2)(a)-(b). Recognizing this limitation, this court has stated that a nonlawyer may not represent any other person in Nevada's courts. See Salman v. Newell, 110 Nev. 1333, 1336, 885 P.2d 607, 608 (1994). And, generally, a contract that is made in disobedience of the law creates no right of action to be enforced by a court. Martinez v. Johnson, 61 Nev. 125, 129, 119 P.2d 880, 882 (1941). Accordingly, having reviewed Downs' appellate arguments and the district court record in light of these principles, we conclude that the district court properly dismissed Downs' complaint.<sup>2</sup>

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Pickering

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<sup>2</sup>Regardless of whether Downs' services to Andrew, a fellow inmate, were permissible on a pro bono basis, see Wiideman v. Angelone, 848 F. Supp. 136, 139 (D. Nev. 1994) (citing Rizzo v. Dawson, 778 F.2d 527, 531 (9th Cir. 1985)), he was not entitled to compensation for those services. Wiideman, 848 F. Supp. at 139.

cc: Hon. James Todd Russell, District Judge  
Jimmy Earl Downs  
Elaine A. Dowling  
Carson City Clerk