

IN THE SUPREME COURT OF THE STATE OF NEVADA

JANICE C. PRICHARD,
Appellant,
vs.
CITIBANK SOUTH DAKOTA, N.A.,
Respondent.

No. 52950

FILED

FEB 05 2010

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 order denying an NRCP 60(b) motion to set aside a summary judgment. Third Judicial District Court, Lyon County; Robert E. Estes, Judge.

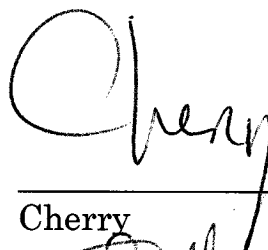
Respondent filed a complaint against appellant, seeking to recover damages for appellant's alleged default on a credit account. Respondent later moved for summary judgment, arguing that appellant breached the credit contract and that it was entitled to judgment as a matter of law under NRS 97A.150 and NRS 97A.160. Respondent provided billing statements for the credit account showing charge and payment history. Appellant opposed the motion, asserting that her account was delinquent due to health issues and that respondent acted in bad faith in filing the complaint and refusing to negotiate the amount due and the interest rate and fees. The court granted respondent's motion and awarded respondent \$2,000 in attorney fees. The court later denied appellant's NRCP 60(b) motion. This appeal followed.

The district court has broad discretion in deciding whether to grant an NRCP 60(b) motion, and this court will not disturb that decision absent an abuse of that discretion. Cook v. Cook, 112 Nev. 179, 912 P.2d 264 (1996). Having reviewed appellant's proper person civil appeal

statement, respondent's response, and the record in light of that standard, we conclude that the district court properly denied appellant's NRCP 60(b) motion. In moving for NRCP 60(b) relief, appellant acknowledged the charges on her account and lack of payment, but she asserted that the late fees and interest were "overinflated" and that respondent should not have been awarded attorney fees. Appellant, however, submitted no evidence to support that the fees and interest added to her account balance were not applied within the boundaries of her credit agreement with respondent.¹ See NRCP 60(b)(1)-(3) (providing that the district court may relieve a party from a final judgment for the following reasons: mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, fraud, misrepresentation, or misconduct by the adverse party). She also did not support her assertion that attorney fees were not properly allowed. See NRS 18.010(2)(a). Thus, as respondent was entitled to judgment as a matter of law on its breach of contract claim, see Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005), the district court properly declined to set aside the summary judgment. Accordingly, we affirm the district court's order denying appellant's motion for NRCP 60(b) relief.

¹In her NRCP 60(b) motion, appellant also argued that the interest rate allowed on the judgment was too high and that respondent "push[ed] through the judgment without notice to [appellant]." Those arguments lack merit, as the interest rate was applied in accordance with NRS 99.040(1), and the record shows that appellant was served with the motion and notice of the summary judgment's entry in accordance with NRCP 5(b); cf. DCR 21 (counsel obtaining a judgment "shall furnish the form of the same to the clerk or judge in charge of the court").

It is so ORDERED.²



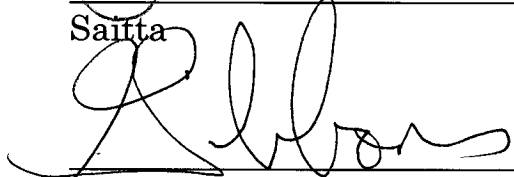
Cherry

J.



Saitta

J.



Gibbons

J.

cc: Third Judicial District Court Dept. 3, District Judge
Janice C. Prichard
Kravitz, Schnitzer, Sloane, Johnson & Eberhardy, Chtd.
Lyon County Clerk

²Having considered appellant's arguments regarding alleged due process violations based on an incorrect mailing address and document filing issues, the district court judge's alleged bias, the court's decision denying her request for a hearing on the issue of exemption, "error in not completing the docket," and respondent's failure to identify more than one defendant, we conclude that they lack merit and thus do not warrant reversal of the district court's order.