

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALBERT REDEAUX,
Appellant,

vs.

K & R HOMES, LLC, A CALIFORNIA
LIMITED LIABILITY COMPANY;
REYNEN & BARDIS DEVELOPMENT
(NEVADA), LLC, A NEVADA LIMITED
LIABILITY COMPANY; REYNEN &
BARDIS COMMUNITIES, INC., A
NEVADA CORPORATION; SIERRA
BARAJAS ROOFING, INC., A NEVADA
CORPORATION; EXPRESS
PLUMBING, A NEVADA
CORPORATION; AND FLEET
HEATING AND AIR INCORPORATED,
Respondents.

No. 53284

FILED

MAR 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Ingerson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from district court orders granting motions to dismiss in a tort action. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Appellant contends that the district court erred in ruling that respondents did not owe appellant a duty based on appellant's claim that respondents are liable for the injuries he suffered when he fell off a roof trying to repair an allegedly negligently installed dryer vent. Having reviewed the briefs and appendices on appeal, we affirm the rulings of the district court, although on different grounds. See Rosenstein v. Steele, 103 Nev. 571, 575, 747 P.2d 230, 233 (1987) (stating that this court will affirm

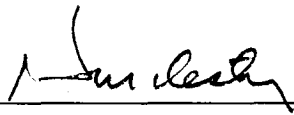
the district court's order "if it reached the correct result, albeit for different reasons").


While respondents have a duty not to negligently install a dryer vent in the construction of a home, appellant failed to adequately set forth a claim that the alleged breach of this duty was the cause of appellant's fall. We have held that causation consists of both actual cause and proximate cause. Goodrich & Pennington v. J.R. Woolard, 120 Nev. 777, 784, 101 P.3d 792, 797 (2004). Actual cause requires that "but for" the negligence, plaintiff's damages would not have occurred; while proximate cause "limits . . . liability to foreseeable consequences that have a reasonably close connection" to the defendants' negligence and the harm created by the negligent conduct. Id.


Appellant's claims arguably meet the actual cause requirement in the general sense, that but for respondents installing the dryer vent on the roof, appellant would not have gone onto the roof. But appellant's claims fail to meet the proximate cause requirement, as appellant did not set forth any allegation that his fall was connected to the dryer vent beyond its placement requiring him to climb onto the roof. Appellant having to climb onto the roof in and of itself is insufficient to establish that respondents' alleged negligence was the cause of his fall. Id.; Viriden v. Betts and Beer Const. Co., Inc., 656 N.W.2d 805, 808-809 (Iowa 2003) (concluding that a repairman that fell from a ladder while repairing a ceiling did not meet the proximate cause requirement because, although "but for" the negligence he would not have climbed the ladder, the negligently constructed ceiling did not cause his fall off the ladder). As

appellant's claims cannot meet a necessary element of negligence, the dismissal of appellant's claims was proper. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Steven P. Elliott, District Judge
Philip A. Olsen, Settlement Judge
Bradley Drendel & Jeanney
Randolph C. Wright
Gunderson Law Firm
Holland & Hart LLP/Reno
Lewis & Roca, LLP/Reno
Lewis Brisbois Bisgaard & Smith, LLP
Washoe District Court Clerk

¹Counsel for respondent Sierra Barajas Roofing, Inc. filed a motion to withdraw as counsel on February 18, 2010, but failed to serve Sierra with the motion. As a result, we decline to rule on the motion. In light of our resolution of this appeal, it also appears that the motion may be moot.