

IN THE SUPREME COURT OF THE STATE OF NEVADA

PERCY LAVAE BACON,
Appellant,

vs.

D.T.G. OPERATIONS, INC.;
THRIFTY/DOLLAR RENTAL, INC.; MIKE
BROOKS; AND QUALITY TOWING,
Respondents.

No. 55225

PERCY LAVAE BACON,
Appellant,

vs.

D.T.G. OPERATIONS, INC., AND
THRIFTY/DOLLAR RENTAL, INC.,
Respondents.

No. 55570

FILED

DEC 09 2010

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

ORDER OF AFFIRMANCE

These are consolidated proper person appeals from a district court judgment in a contract action and a post-judgment order awarding attorney fees and costs. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

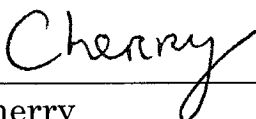
Proper person appellant Percy Lavae Bacon filed two district court complaints based on the same December 2003 incident in which his personal property was allegedly taken from a rental car that was impounded after his arrest during a traffic stop. Having reviewed appellant's civil proper person appeal statements and the record on appeal, we conclude that appellant's arguments regarding the dismissal of his actions lack merit. The dismissal of all defendants in Eighth Judicial District Court Case No. A495030 was mandated by NRCP 41(e)'s five-year rule, regardless of the equities or circumstances surrounding the dismissal. Allyn v. McDonald, 117 Nev. 907, 912, 34 P.3d 584, 587 (2001). Further, the district court did not abuse its discretion in entering the

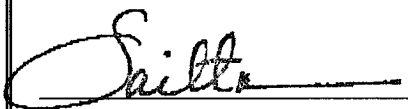
dismissal with prejudice. Monroe v. Columbia Sunrise Hosp., 123 Nev. 96, 102-03, 158 P.3d 1008, 1012 (2007).


With respect to the dismissal of appellant's second action, in Eighth Judicial District Court Case No. A541431, we conclude that the district court properly barred it as being the same action based on the same facts and December 2003 incident as in his first case. Dubin v. Harrell, 79 Nev. 467, 386 P.2d 729 (1963). Accordingly, we conclude that the district court properly dismissed appellant's second case as to all respondents. We thus affirm the December 23, 2009, judgment in its entirety.

Finally, because appellant has failed to present any cogent argument regarding the post-judgment attorney fees and costs award, we necessarily affirm that award. Edwards v. Emperor's Garden Rest., 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006).

It is so ORDERED.¹


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Valerie Adair, District Judge
Percy Lavae Bacon
Mills & Associates
Toschi, Sidran, Collins, and Doyle
Eighth District Court Clerk

¹In light of this order, we deny all pending motions as moot.