

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD ELRY MORRISON,
Appellant,
vs.
THE STATE OF NEVADA
DEPARTMENT OF HUMAN
RESOURCES, WELFARE DIVISION;
AND STACY ANN RICH,
Respondents.

No. 56862

FILED

JUL 18 2011

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a hearing master's recommendation, deemed approved by the district court pursuant to NRS 425.3844, denying appellant NRCP 60(b) relief from a default judgment in a child support action. Eighth Judicial District Court, Family Court Division, Clark County.

Upon consideration of the record and appellant's civil proper person appeal statement, we conclude that the district court did not abuse its discretion by denying appellant relief from the default judgment.¹ See

¹Because appellant did not file objections to the hearing master's recommendation that NRCP 60(b) relief be denied, the recommendation was deemed approved by the district court, pursuant to NRS 425.3844. On appeal, appellant argues that his NRCP 60(b) motion should have been resolved by the district court, rather than the hearing master, and that he did not have an opportunity to object to the master's recommendation because it was sent to the wrong address. NRS 425.3844(2) provides that objections to a master's recommendation must be filed "[w]ithin 10 days after receipt of the recommendation" Under this statute, even if the recommendation was sent to the wrong address, appellant would have had ten days after his actual receipt of the recommendation within which to object. Id. Rather than wait until he received the recommendation, however, appellant opted to file a notice of appeal on the same day that

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Cook v. Cook, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996) (explaining that the district court has wide discretion in deciding whether to grant or deny an NRCP 60(b) motion for relief from a judgment). As an initial matter, the record evidence supports the conclusion that appellant was personally served with notice of the hearing to establish his financial responsibility. As a result, appellant was not entitled to relief from the default judgment based on improper service. See NRCP 60(c) (providing that a default judgment may be vacated if the party against whom the judgment was entered was not personally served with the summons and complaint, but that if the party was personally served, he or she must proceed through NRCP 60(b) in order to be relieved from the judgment); see also Gepford v. Gepford, 116 Nev. 1033, 1036, 13 P.3d 47, 49 (2000) (explaining that a district court's factual findings will be upheld if supported by substantial evidence in the record).

Additionally, although the district attorney's office filed a document in the district court action entitled "Release of Judgment," the district court retained wide discretion to determine whether that document entitled appellant to relief from the judgment, and we discern no abuse of that discretion in the district court's conclusion that it did not. See Cook, 112 Nev. at 181-82, 912 P.2d at 265. Finally, to the extent that appellant argues that he should have been allowed to present evidence challenging paternity, and thus, his financial responsibility, the district court did not reach these arguments, as appellant's financial responsibility was determined by the default judgment, and, as discussed herein, the

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the hearing master entered the recommendation. Thus, we conclude that these arguments do not provide a basis for reversal.

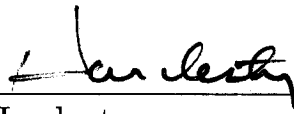
district court properly declined to set aside that judgment under NRCP 60(b).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Douglas

_____, J.
Saitta

_____, J.
Hardesty

cc: Chief Judge, Eighth Judicial District Court,
Family Court Division
Edward Elry Morrison
Clark County District Attorney/Family Support Division
Eighth District Court Clerk