

IN THE SUPREME COURT OF THE STATE OF NEVADA

TOMMY C. SCHROEDER,
Appellant,
vs.
MARK L. GLYMAN, INDIVIDUALLY
AND D/B/A MARK L. GLYMAN, M.D.,
D.D.S., A DOMESTIC CORPORATION,
Respondent.

No. 58603

FILED

MAR 14 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK


ORDER OF AFFIRMANCE

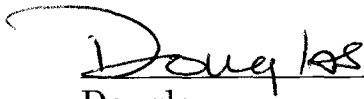
This is an appeal from a district court order dismissing a medical malpractice action. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

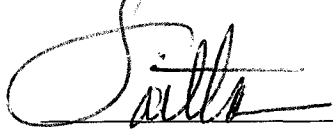
Having considered the parties' arguments and the record on appeal, we conclude that the district court did not abuse its discretion by dismissing the complaint, pursuant to NRCP 16.1(e)(2), based on appellant's failure to timely file a case conference report. See Arnold v. Kip, 123 Nev. 410, 414, 168 P.3d 1050, 1052 (2007) (explaining that this court reviews the district court's dismissal under NRCP 16.1(e)(2) for an abuse of discretion). First, the district court did not abuse its discretion by failing to consider lesser sanctions, as NRCP 16.1(e)(2) specifically provides for dismissal when the case conference report is not timely filed, and the district court's order reflects that the court understood that dismissal was not mandatory. Second, the district court appropriately considered the entire length of the delay in this case because the case conference report should have been filed within 30 days after the case conference. See NRCP 16.1(c). Finally, in making its decision, the district

court weighed the appropriate factors, including the length of the delay, the effect of the delay on the timely prosecution of the case, and the lack of good cause to excuse the delay.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Kathleen E. Delaney, District Judge
Stephen E. Haberfeld, Settlement Judge
Lewis & Associates, LLC
Hutchison & Steffen, LLC
Eighth District Court Clerk

¹To the extent that appellant argues that the district court's dismissal of the case was inconsistent with the medical/dental panel's conclusion that good cause existed to waive the rule requiring malpractice actions to be brought within two years, appellant did not present this argument to the district court, and thus, we decline to address it on appeal. See Mason v. Cuisenaire, 122 Nev. 43, 48, 128 P.3d 446, 449 (2006) ("Generally, failure to raise an argument in the district court proceedings precludes a party from presenting the argument on appeal.").