

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTINE TAYLOR,
Appellant,
vs.
KVVU BROADCASTING
CORPORATION,
Respondent.

No. 64573

FILED

MAY 27 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL IN PART AND AFFIRMING IN PART

This is a pro se appeal from district court orders granting a preliminary injunction and entering a default judgment as a discovery sanction in a torts action. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

In the case below, respondent KVVU Broadcasting Corporation sued appellant Christine Taylor, a former employee, for causes of action relating to KVVU's allegation that Taylor took numerous confidential documents from KVVU. The court granted KVVU's request for a preliminary injunction, and Taylor was ordered to return KVVU's documents while the case proceeded. To return the documents, Taylor left them in an open box, along with some computer parts, on the sidewalk outside of KVVU's counsel's office building in downtown Las Vegas at

Foster, 126 Nev. 65-66, 227 P.3d at 1048-49 (applying the *Young* factors in the context of the entry of a default as a discovery sanction).

In this case, prior to entering the default, the district court considered the *Young* factors at a hearing before deciding to sanction Taylor by striking her answer and entering a default against her. Thereafter, the district court entered detailed findings of fact and conclusions of law explaining why, in light of the *Young* factors, it decided to strike Taylor's answer and enter default against her as a sanction.

On appeal, Taylor presents many conclusory arguments, none of which could be construed to address the district court's findings and conclusions regarding the *Young* factors. Among other things, Taylor provides no argument regarding whether her action of leaving the box of documents on the street was willful, whether KVVU would be prejudiced by a lesser sanction, the severity of the sanctions compared to the severity of her conduct, whether the evidence was irreparably lost, the feasibility and fairness of a lesser sanction, the policy favoring adjudication on the merits, or the need to deter herself and future litigants from similar abuses. *See Young*, 106 Nev. at 93, 787 P.2d at 780. Because the arguments actually advanced by Taylor do not address the district court's findings and conclusions in applying the *Young* factors, we conclude, under the heightened standard detailed in *Young*, the district court did not abuse its discretion in striking Taylor's answer and entering a default against her as a sanction. *See id.* at 92, 787 P.2d at 779; *see also Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that assertions not cogently argued need not be considered on appeal). Thus, given Taylor's failure to address the district

approximately 4 a.m.¹ This box of materials, however, disappeared from the sidewalk outside KVVU's counsel's office before they could be retrieved. Based on these events, the district court granted KVVU's motion to strike Taylor's answer to the complaint, entered a default as a sanction, and ultimately entered a default judgment against Taylor. This appeal followed.

Taylor first challenges the district court's grant of a preliminary injunction against her. A district court order granting a preliminary injunction is an independently appealable determination. See NRAP 3A(b)(3). And here, while the notice of entry of the order granting that injunction was served via a number of methods, including by mail, on May 24, 2013, appellant's notice of appeal was not filed in the district court until December 10, 2013, well beyond even the 33 days she would have had to file her notice of appeal following service of the notice of entry of the order by mail. See NRAP 4(a)(1); NRAP 26(c). Because appellant's notice of appeal from the order granting the preliminary injunction was untimely filed, we lack jurisdiction to consider her challenge to that order and we therefore dismiss the appeal to the extent appellant challenges the district court's preliminary injunction order. See *Healy v. Volkswagenwerk Aktiengesellschaft*, 103 Nev. 329, 331, 741 P.2d 432, 433 (1987) (noting that an untimely notice of appeal fails to vest jurisdiction in an appellate court).


¹Video surveillance and an affidavit from a construction worker Taylor spoke to when she was dropping off the box confirmed this.


Next we turn to Taylor's challenge to the district court's grant of default as a discovery sanction. Although Taylor's exact arguments are difficult to discern, it appears she is asserting she did not have any of KVVU's confidential documents in her possession based on how the term confidential is defined by KVVU's corporate policies. This argument, however, is not relevant to the propriety of the sanctions imposed upon Taylor, as the district court's entry of default resulted in all facts alleged in the pleadings, including the assertion Taylor possessed KVVU's confidential documents, being deemed admitted. *See Foster v. Dingwall*, 126 Nev. 56, 67, 227 P.3d 1042, 1049 (2010) ("Generally, where a district court enters default, the facts alleged in the pleadings will be deemed admitted.").

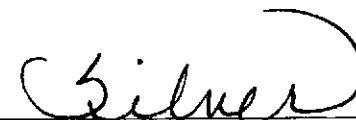
With regard to the district court's entry of a default as a sanction for Taylor's actions in litigating the underlying case and the resulting entry of a default judgment against her, district courts "have inherent equitable powers to dismiss actions or enter default judgments for . . . abusive litigation practices." *Young v. Johnny Ribeiro Bldg., Inc.*, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990) (alteration in original) (quoting *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 916 (9th Cir. 1987)). While a decision to enter such sanctions is generally reviewed for an abuse of discretion, *id.*, a somewhat heightened standard of review applies when the sanction imposed involves the entry of a default. *Foster*, 126 Nev. at 65, 227 P.3d at 1048. In *Young*, the Nevada Supreme Court set forth a non-exhaustive list of factors to be considered before a district court enters a default as a litigation sanction. 106 Nev. at 93, 787 P.2d at 780; *see also*

court's findings and conclusions in entering a default against her as a discovery sanction, we necessarily affirm the default judgment entered against Taylor in this matter.²

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Adriana Escobar, District Judge
Christine Taylor
Black & LoBello
Eighth District Court Clerk

²We have considered each of Taylor's myriad appellate arguments and conclude that they either need not be addressed in light of our resolution of this matter or that they are without merit. Additionally, having reviewed Taylor's multiple appellate filings, we deny all additional relief requested in this matter.