

IN THE SUPREME COURT OF THE STATE OF NEVADA

NATALIE S. WHITE, AN INDIVIDUAL,
Appellant,

vs.

DIGNITY HEALTH, A CALIFORNIA
CORPORATION D/B/A ST. ROSE
DOMINICAN HOSPITAL SIENA
CAMPUS,

Respondent.

No. 68766

FILED

SEP 30 2016

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

*ORDER DENYING MOTION FOR EXTENSION OF TIME,
DISMISSING APPEAL, REFERRING COUNSEL TO STATE BAR OF
NEVADA FOR INVESTIGATION, AND GRANTING IN PART MOTION
FOR SANCTIONS*

This is an appeal from a district court order granting a motion to dismiss a second amended complaint. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

On January 28, 2016, we entered an order conditionally imposing sanctions on counsel for appellant, Sean Lyttle, for his failure to file the docketing statement and transcript request form.¹ We directed Mr. Lyttle to pay the sum of \$250 to the Supreme Court Law Library and provide this court with proof of payment within 15 days. However, the sanction would be automatically vacated if Mr. Lyttle filed the required documents, or a motion for an extension of time, within 11 days. We cautioned that failure to comply with our order or other filing deadlines would result in the dismissal of this appeal. We further cautioned that failure to comply would also result in Mr. Lyttle's referral to the State Bar

¹A copy of this order is attached.

of Nevada for investigation pursuant to SCR 104-105 for violations of RPC 1.3 (diligence), 3.2(a) (expediting litigation), and 8.4 (misconduct).

Mr. Lyttle did not comply with our order. However, because it appeared that Mr. Lyttle may have neglected to change his email address in E-Flex, resulting in his nonreceipt of this court's notices and orders, we elected not to dismiss this appeal or refer Mr. Lyttle to the State Bar at that time. We entered an order on March 31, 2016, extending the deadlines for Mr. Lyttle to file the transcript request form and docketing statement and directed him to file the opening brief and appendix within 60 days.² We again cautioned that failure to comply with our order or future filing deadlines would result in the dismissal of this appeal and Mr. Lyttle's referral to the State Bar of Nevada for investigation.

Mr. Lyttle timely filed a certificate that no transcript was to be requested, docketing statement, and opening brief. On June 7, 2016, we approved the parties' stipulation for an extension of time to file the answering brief. However, on June 22, 2016, we entered an order striking the opening brief because it failed to comply with this court's procedural rules.³ We directed Mr. Lyttle to file and serve an amended opening brief and appendix by July 5, 2016.

Mr. Lyttle did not file the amended opening brief and appendix as directed or otherwise communicate with this court. On August 2, 2016, respondent filed a motion to dismiss this appeal based on Mr. Lyttle's failure to file the opening brief and failure to comply with this court's rules and orders. Respondent also seeks sanctions in the amount

²A copy of this order is attached.

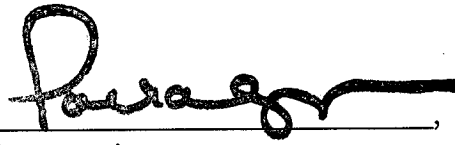
³A copy of this order is attached.

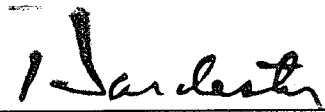
of \$7,930.50 for attorney fees and requests an award of costs incurred on appeal. Appellant opposes the motion and has filed an untimely motion for an extension of time to file the opening brief and appendix. Mr. Lyttle states that he “missed” this court’s June 22, order and was not aware that the opening brief had been struck until he received respondent’s motion to dismiss. Mr. Lyttle claims that the oversight was “understandable and reasonable” given that respondent had been granted an extension of time to file the answering brief and Mr. Lyttle was not expecting any further activity in the case until the answering brief was due in August.

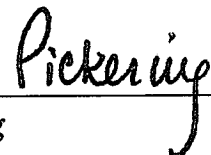
Having considered the motion to dismiss, opposition, and reply, as well as the extension motion and respondent’s opposition thereto, we are not convinced that Mr. Lyttle’s failure to timely file the amended opening brief and appendix was reasonable or understandable, especially in light of Mr. Lyttle’s numerous failures to comply with this court’s rules and orders in this case. Accordingly, we deny the untimely motion for an extension of time to file the opening brief and appendix and grant the motion to dismiss this appeal. *See, e.g., Huckabay Props. v. NC Auto Parts*, 130 Nev. Adv. Op. 23, 322 P.3d 429, 434 (2014) (“[W]hen an appellant fails to adhere to Nevada’s appellate procedure rules, which embody judicial administration and fairness concerns, or fails to comply with court directives or orders, that appellant does so at the risk of forfeiting appellate relief.”). The clerk shall reject the opening brief and appendix received on August 12, 2016. Further, we refer Mr. Lyttle to the State Bar of Nevada for investigation. Respondent’s motion for attorney fees is granted to the following extent. Mr. Lyttle shall personally pay counsel for respondent the sum of \$1,000 for attorney fees and provide this court with written proof of payment within 15 days of the date of this

order. See NRAP 38(b) (allowing this court to impose attorney fees as costs on appeal where it determines that an appeal was processed in a frivolous manner). We decline to impose any sanction on appellant personally. Respondent's motion for costs under NRS 18.060 is denied. Respondent may file a bill of costs pursuant to NRAP 39 within 14 days of the date of this order, if deemed appropriate.

It is so ORDERED.


_____, C.J.
Parraguirre


_____, J.
Hardesty


_____, J.
Pickering

cc: Hon. Valerie Adair, District Judge
Carolyn Worrell, Settlement Judge
The Law Office of Sean D. Lyttle, PC
Natalie S. White
Jackson Lewis P.C.
Eighth District Court Clerk
State Bar of Nevada
Sean D. Lyttle

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No. 68766

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JAN 28 2016

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

ORDER CONDITIONALLY IMPOSING SANCTIONS

This appeal was docketed in this court on September 4, 2015. Counsel for appellant, Sean Lyttle, did not file the docketing statement within the time period provided by NRAP 14(b). Thus, on October 26, 2015, we issued a notice directing Mr. Lyttle to file the docketing statement by November 10, 2015, and cautioning that failure to comply could result in the imposition of sanctions.¹ NRAP 14(c). Additionally, on November 3, 2015, we entered an order directing Mr. Lyttle to file and serve a transcript request form, or certificate of no transcript request, by November 18, 2015.² When Mr. Lyttle did not comply, we issued a notice directing him to file the transcript request form by December 28, 2015.³ We cautioned that failure to comply could result in the imposition of sanctions. See NRAP 9(a)(6). To date, Mr. Lyttle has not filed the

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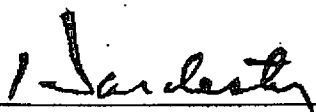
³A copy of this notice is attached.


docketing statement or transcript request form or otherwise communicated with this court.

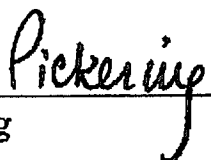
Mr. Lyttle's failure to file the transcript request form and docketing statement warrants the *conditional* imposition of sanctions. Mr. Lyttle shall pay the sum of \$250 to the Supreme Court Law Library and provide this court with proof of such payment within 15 days from the date of this order. The conditional sanction will be automatically vacated if Mr. Lyttle files and serves the transcript request form or certificate of no transcript request, and docketing statement, or a properly supported motion to extend time, *see* NRAP 14(d); NRAP 26(b)(1)(A), within 11 days from the date of this order.

If the required documents are not timely filed, the sanction will no longer be conditional and must be paid. Failure to comply with this order or any other filing deadlines will result in the imposition of additional sanctions, including the dismissal of this appeal. *See* NRAP 9(a)(6); NRAP 14(c). Further, because it appears that Mr. Lyttle's conduct in this appeal may constitute violations of RPC 1.3 (diligence), 3.2(a) (expediting litigation), and 8.4 (misconduct), failure to comply with this order or any other filing deadlines will also result in Mr. Lyttle's referral to the State Bar of Nevada for investigation pursuant to SCR 104-105.

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Saitta


_____, J.
Pickering

cc: The Law Office of Sean D. Lyttle, PC
Jackson Lewis P.C.
Sean D. Lyttle
Supreme Court Law Librarian

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Respondent.

No. 68766

FILED

MAR 31 2016

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

ORDER

This appeal was docketed in this court on September 4, 2015. When counsel for appellant; Sean Lyttle, did not timely file the docketing statement, we issued a notice on October 26, 2015, directing him to file the docketing statement by November 10, 2015, and cautioning that failure to comply could result in the imposition of sanctions.¹ NRAP 14(c). Additionally, on November 3, 2015, we entered an order directing appellant to file and serve a transcript request form, or certificate of no transcript request, by November 18, 2015.² When Mr. Lyttle did not comply, we issued a notice directing him to file the transcript request form by December 28, 2015.³ We cautioned that failure to comply could result in the imposition of sanctions. *See* NRAP 9(a)(6). Mr. Lyttle did not comply. Accordingly, on January 28, 2016, we entered an order

¹A copy of this notice is attached.

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conditionally imposing sanctions against Mr. Lyttle.⁴ Our order directed him to pay the sum of \$250 to the Supreme Court Law Library and provide this court with proof of payment within 15 days. However, the sanction would be automatically vacated if Mr. Lyttle filed the required documents, or a motion for an extension of time, within 11 days. We cautioned that failure to comply with our order or other filing deadlines would result in the dismissal of this appeal. We further cautioned that failure to comply would also result in Mr. Lyttle's referral to the State Bar of Nevada for investigation pursuant to SCR 104-105 for violations of RPC 1.3 (diligence), 3.2(a) (expediting litigation), and 8.4 (misconduct).

To date, Mr. Lyttle has not paid the sanction, filed any of the required documents, responded to our order, or otherwise communicated with this court. Additionally, the opening brief and appendix are now overdue.

We note that the email address listed for Mr. Lyttle on the notice of appeal, sean@seanlyttlelaw.com, differs from the email address Mr. Lyttle provided to this court via the E-Flex system, slyttle@bhfs.com. It thus appears that Mr. Lyttle may have changed his email address and neglected to update his address in E-Flex. It also appears that this may have resulted in Mr. Lyttle's nonreceipt of this court's notices and orders.⁵ We remind Mr. Lyttle that it is his responsibility to ensure that this court's electronic filing system has the correct email address. NERC 13(c). But even if Mr. Lyttle did not receive our notices and orders, this court's

⁴A copy of this order is attached.

⁵The clerk of this court shall mail a paper copy of this order to Mr. Lyttle.

rules put him on notice that the docketing statement, transcript request form, and opening brief and appendix, were all due to be filed. See NRAP 9(a)(3)(A) (requiring appellant to file and serve a transcript request form within 15 days of the docketing of the appeal); NRAP 14(a), (b) (requiring a docketing statement to be filed in all appeals except those subject to NRAP 3C within 20 days of the docketing of the appeal); NRAP 31(a)(1)(A) (requiring opening brief to be filed within 120 days of the docketing of the appeal).

Accordingly, the sanction imposed in our January 28, 2016, order is no longer conditional and must be paid. Mr. Lyttle shall pay the sum of \$250 to the Supreme Court Law Library within 11 days of the date of this order and provide proof of such payment, in writing, within 15 days of the date of this order. Mr. Lyttle shall have 5 days from the date of this order to file and serve a file-stamped copy of the transcript request form, or a certificate that no transcripts will be requested, NRAP 9(a), and a docketing statement, NRAP 14. Mr. Lyttle shall have 60 days from the date of this order to file and serve the opening brief and appendix.

Failure to comply with this order or future filing deadlines will result in the dismissal of this appeal and Mr. Lyttle's referral to the State Bar of Nevada for investigation pursuant to SCR 104-105 for violations of RPC 1.3 (diligence), 3.2(a) (expediting litigation), and 8.4 (misconduct).

It is so ORDERED.

Hardesty, J.
Hardesty

Saitta, J.
Saitta

Pickering, J.
Pickering

cc: The Law Office of Sean D. Lyttle, PC
Jackson Lewis P.C.
Supreme Court Law Librarian
Sean D. Lyttle

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FILED

JUN 22 2016

TRACIE K. HINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER STRIKING OPENING BRIEF AND APPENDIX

On June 1, 2016, appellant filed the opening brief. However, the appendix was improperly attached to the brief. NRAP 30(c). In addition, the appendix does not contain an index, *see* NRAP 30(c)(2), its pages are not paginated consecutively, *see* NRAP 30(c)(1), and the opening brief does not cite to the pages of the appendix, *see* NRAP 28(e)(1). Accordingly, the clerk of this court shall strike the opening brief and attached appendix filed on June 1, 2016. Appellant shall have 11 days from the date of this order to file and serve an amended opening brief and an appendix that comply with all applicable rules.

It is so ORDERED.

C.J.

cc: The Law Offices of Sean D. Lyttle, PC
Jackson Lewis P.C.