

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FLEETA CHAPMAN, AN INDIVIDUAL,
Appellant,
vs.
DROCK GAMING, LLC, D/B/A THE D, A
CORPORATION; AND THE D LAS
VEGAS,
Respondent.

No. 69831

FILED

NOV 29 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying NRCP 60(b) relief. Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

Respondent filed a motion to dismiss appellant's tort complaint because appellant failed to timely file notice of posting the required security bond. See NRS 18.130 (allowing a defendant to require an out-of-state plaintiff to post a security bond and providing that, if the bond is not timely posted, the district court may dismiss the complaint). Appellant never opposed the motion to dismiss and also failed to appear at the hearing on the motion. Based on appellant's failure to oppose the motion to dismiss, the district court dismissed the matter pursuant to EDCR 2.20(e) (providing that the district court may construe a party's failure to oppose a motion as a consent to granting the same).


Appellant then sought to set the dismissal order aside pursuant to NRCP 60(b), asserting that mistake or excusable neglect should excuse the untimely filing of the security bond and that respondent had agreed to vacate the motion to dismiss upon receiving notice that the

bond was filed.¹ The district court denied the motion because, as is pertinent here, appellant failed to assert that dismissal under EDCR 2.20(e) was in error or an abuse of discretion.

On appeal, appellant fails to argue that the district court improperly denied NRCP 60(b) relief based on its conclusion that appellant never challenged the dismissal of the underlying complaint based on EDCR 2.20(e).² Accordingly, he has waived any such argument, *see Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (holding that issues not raised on appeal are deemed waived), and we necessarily affirm the district court's denial of NRCP 60(b) relief on that ground.

It is so ORDERED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

¹Appellant admits that she failed to provide notice of the filing of the bond to respondent until after the district court ruled on the motion to dismiss.

²We deny respondent's request to dismiss the appeal for a lack of jurisdiction as this request was already raised before the Nevada Supreme Court, which denied it in its July 27, 2016, Order Denying Motion to Dismiss. Additionally, because appellant does not appeal from the district court's order dismissing the complaint, respondent's argument that any appeal from that order would be untimely has no bearing on this matter or our jurisdiction over this appeal from the order denying NRCP 60(b) relief.

³Based on the decision herein, we need not address the parties' arguments regarding the security bond.

cc: Hon. Linda Marie Bell, District Judge
Persi J. Mishel, Settlement Judge
Quirk Law Firm
Cisneros & Marias
Eighth District Court Clerk