

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN FRANCIS ARPINO,
Appellant,

vs.

WASHOE COUNTY BOARD OF
COMMISSIONERS; WASHOE COUNTY
DISTRICT ATTORNEY; RICHARD A.
GAMMICK; CHRISTOPHER J. HICKS;
NATHAN J. EDWARDS; HERBERT B.
KAPLAN; ERICA L. JONES;
TERRENCE P. MCCARTHY; STATE OF
NEVADA; AND MICHAEL LARGE,
Respondents.

JOHN FRANCIS ARPINO,
Appellant,

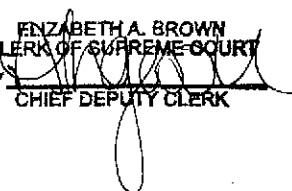
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Respondents.

No. 70429

FILED

JAN 30 2017

ENZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
CHIEF DEPUTY CLERK

No. 70494

ORDER OF AFFIRMANCE

These are consolidated appeals from district court orders dismissing appellant's complaint and denying a subsequent request for NRCF 60(b) relief from the dismissal order. Second Judicial District Court, Washoe County; Lidia Stiglich, Judge.

In the action below, appellant filed a complaint asserting that all of Washoe County's district attorneys were ineligible to fulfill the duties of their offices because they had not obtained a bond as required by

statute. Respondents moved to dismiss the complaint and to declare appellant a vexatious litigant. But before that motion was decided, appellant sought to disqualify the district court judge, the Honorable Lidia Stiglich.¹ Judge Stiglich specifically denied all allegations of bias and prejudice, but transferred the disqualification motion to the Honorable Connie Steinheimer for resolution. Before the disqualification motion was decided, however, the Nevada Supreme Court entered an administrative memorandum assigning a senior judge, the Honorable Steven Elliott, to the matter based on the conclusion that all of the district court judges in Nevada's second judicial district had recused themselves from hearing appellant's cases. Appellant then sought the disqualification of Senior Judge Elliott, and that motion was also assigned to Judge Steinheimer for resolution. Both disqualification motions were denied because Judge Steinheimer found no evidence of actual or implied bias, and, in the case of Judge Stiglich, also because the motion was untimely. *See* NRS 1.230 (stating the grounds for disqualification); NRS 1.235 (providing the time within which a motion for disqualification must be filed). The case was then transferred back to Judge Stiglich for resolution.

Judge Stiglich then entered an order, over appellant's opposition, dismissing his claims because he failed to state a claim for relief and deeming him a vexatious litigant. That order is the subject of the appeal in Docket Number 70429.² Appellant then sought NRCP 60(b)

¹Judge Stiglich has recently been appointed to the Nevada Supreme Court. Because she sat in the underlying matter in her capacity as a district court judge, this order refers to her as Judge Stiglich.

²Within this appeal, appellant also challenges the authority of Judge Steinheimer to decide the disqualification motions.

relief from that order, asserting that the Nevada Supreme Court's administrative memorandum removed authority from all of the second judicial district court judges to enter any orders in his cases. The district court denied NRCP 60(b) relief, and that decision is the subject of the appeal in Docket Number 70494. Although, as noted above, appellant has appealed both the district court's dismissal order and its order denying NRCP 60(b) relief, he does not address the substantive bases for the district court's dismissal order. Instead, he simply repeats the arguments from his NRCP 60(b) motion below to assert that Judges Stiglich and Steinheimer lacked authority to enter any orders in his case based on the Nevada Supreme Court's administrative memorandum assigning the matter to Senior Judge Elliott for resolution. See NRCP 60(b) (allowing a district court to relieve a party from a final judgment if certain circumstances are met). For the reasons set forth below, we conclude this argument lacks merit.

While the supreme court's memorandum indicated that all of the second judicial district court judges had recused themselves from appellant's cases, based on the record before us, that determination appears to have been incorrect. There is no evidence in the record, and appellant makes no argument, that either Judge Stiglich or Judge Steinheimer recused themselves from appellant's matters. Moreover, Judge Stiglich specifically stated she did not have any bias or prejudice against appellant in responding to his disqualification motion, and in deciding appellant's motion, Judge Steinheimer did not find any bias or prejudice, and further found the motion to be untimely. And without any

self-proclamation or finding of bias or prejudice,³ Judge Stiglich had a duty to hear appellant's case. *See Millen v. Eighth Judicial Dist. Court*, 122 Nev. 1245, 1253, 148 P.3d 694, 700 (2006) (“[A] judge has a general duty to sit, unless a judicial canon, statute, or rule requires the judge’s disqualification.”); *Ham v. Eighth Judicial Dist. Court*, 93 Nev. 409, 415, 416, 566 P.2d 420, 424, 425 (1977) (directing a judge to sit on a case when “it was expressly indicated that there was no justification for the [judge’s] withdrawal” as it was clear the legislature did not intend for a judge to be disqualified “by an unsubstantiated charge of bias or prejudice,” especially when the disqualification motion was untimely). Similarly, because Judge Steinheimer neither admitted to nor was found to be biased or prejudiced, she also had a duty to hear the disqualifications motions. *See Millen*, 122 Nev. at 1253, 148 P.3d at 700; *Ham*, 93 Nev. at 415, 416, 566 P.2d at 424, 425.


Accordingly, the district court properly denied appellant’s motions to disqualify, *see Millen*, 122 Nev. at 1253, 148 P.3d at 700; *Ham*, 93 Nev. at 415, 416, 566 P.2d at 424, 425, and we perceive no abuse of discretion in the district court’s denial of appellant’s NRCP 60(b) motion that was based solely on his assertions that the judges lacked authority to enter the challenged orders. Accordingly, we affirm those decisions. *See Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996) (providing that district courts have wide discretion in deciding NRCP 60(b) motions and that such decisions will not be overturned absent an abuse of discretion).


³The supreme court administrative memorandum likewise did not find any bias or prejudice but rather simply stated that the district court judges had recused themselves.

Finally, appellant has failed to provide any argument on appeal against the district court's dismissal of his complaint for failure to state a claim on which relief could be granted or against him being deemed a vexatious litigant. Accordingly, we necessarily affirm those decisions. See *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that claims which are not cogently argued on appeal need not be considered).

It is so ORDERED.⁴


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

⁴Having reviewed all of appellant's additional appellate filings, motions, and requests for relief, we deny any remaining relief requested therein. And specifically, regarding appellant's assertions that the Honorable Abbi Silver, Chief Judge, and the Honorable Michael Gibbons, Judge, should disqualify themselves from the resolution of these appeals, that request is denied based on appellant's failure to comply with the requirements of NRAP 35(a)(2) in seeking such disqualifications. See *Martin v. Beck*, 112 Nev. 595, 596, 915 P.2d 898, 899 (1996) (recognizing that an appellate court may reject a disqualification motion when it does not comply with NRAP 35's procedural requirements).

cc: Hon. Patrick Flanagan, Chief District Judge
District Judge, Second Judicial District Court, Dept. 8
John Francis Arpino
Washoe County District Attorney/Civil Division
Washoe District Court Clerk