

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARREN GABRIEL LACHANCE,  
Appellant,  
vs.  
THE CITY OF SPARKS; AND THE  
POLICE DEPARTMENT OF THE CITY  
OF SPARKS,  
Respondents.

No. 72236

FILED

DEC 28 2017

ELIZABETH BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Darren Gabriel LaChance appeals from a district court order granting summary judgment in a forfeiture matter. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

LaChance was arrested in 2012 and the City of Sparks confiscated \$1,608.62 from him at that time. In 2015, the City of Sparks filed a complaint for forfeiture regarding the \$1,608.62 pursuant to NRS 179.1171, and LaChance filed an answer. The City of Sparks then served LaChance with written discovery requests, which LaChance refused to answer. Instead, he moved for a protective order, claiming that the discovery was harassing. The district court denied the motion for protective order and granted the City of Sparks' motion to compel discovery responses. LaChance then moved to dismiss the complaint, asserting that he had documentation that showed the confiscated money was gambling proceeds, but the district court denied the motion. As LaChance continued to refuse to answer discovery, including requests for admissions, requests for production of documents, and interrogatories, the City of Sparks moved for

various discovery sanctions, including to deem matters admitted. The City of Sparks simultaneously moved for summary judgment.

The court granted both of the City of Sparks' motions. In deciding the motion for summary judgment, the district court found that LaChance was convicted of possession of a controlled substance for the purpose of sale, and that LaChance did not rebut the presumption that the seized money was traceable to the illegal exchange of a controlled substance. *See* NRS 453.301(9). Specifically, the court noted that LaChance had not provided any evidence to show a genuine issue of material fact as the gambling reports he relied upon were unauthenticated and unpersuasive. LaChance now appeals, arguing that the court erred in granting summary judgment because the documents he presented created issues of fact, and the requests for admission should not have been deemed admitted because he submitted a certification of compliance with discovery.

This court reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.* General allegations and conclusory statements do not create genuine issues of fact. *Id.* at 731, 121 P.3d at 1030-31.

Based upon the record here, we agree with the district court that no genuine issues of material fact exist. LaChance was convicted of possession of a controlled substance for the purpose of sale, for which there is a presumption that the cash seized is connected. *See* NRS 453.301(9);


*LaChance v. State*, 130 Nev. 263, 321 P.3d 919 (2014) (affirming LaChance's conviction for possession of a controlled substance for the purpose of sale). And the documents LaChance presented do not show a clear separation between the confiscated cash and the illegal drug sale conviction sufficient to rebut NRS 453.301(9)'s presumption or demonstrate that genuine issues of material fact remained.

Moreover, the district court deemed several matters admitted based on LaChance's failure to respond to requests for admissions, such that LaChance was deemed to have admitted that the seized cash was proceeds from drug sales and that he had no gambling winnings on him at the time of his arrest. NRCP 36(a) provides that requests that are not answered within 30 days of service, or another time frame as set by the court or the parties, are admitted. And here, the record shows that LaChance failed to timely respond to the discovery requests either initially or following the court's order compelling him to do so. As such, the district court properly deemed the matters admitted even though LaChance filed a late "certificate of compliance" and included untimely blanket denials of the requests for admissions with his singular opposition to the City of Sparks' motion for sanctions and motion for summary judgment. See *Wagner v. Carex Investigations & Sec. Inc.*, 93 Nev. 627, 630, 572 P.2d 921, 923 (1977) (noting that the granting of relief is discretionary with regard to sanctions for failure to serve timely answers or objections to request for admissions). And "[i]t is well-settled that unanswered requests for admission may be properly relied upon as a basis for granting summary judgment." *Estate of Adams ex rel. Adams v. Fallini*, 132 Nev. \_\_\_, \_\_\_, 386 P.3d 621, 625 (2016). As such, the matters deemed admitted establish that the cash seized was directly related to the illegal sale of a controlled substance.

Thus, for the reasons set forth above, even in the light most favorable to LaChance, the record fails to rebut the presumption that the seized cash is connected to the sale of illegal substances pursuant to NRS 453.301(9). As a result, we necessarily affirm the decision of the district court granting summary judgment here.

It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Scott N. Freeman, District Judge  
Darren Gabriel LaChance  
Sparks City Attorney  
Washoe District Court Clerk