

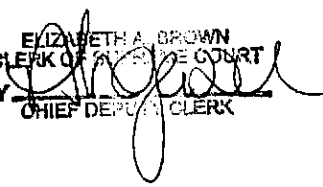
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JASON L. LOPEZ, AN INDIVIDUAL,  
Appellant,  
vs.  
CAMERON ASHLEY GONZALES, AN  
INDIVIDUAL; DANA MCCLANAHAN,  
AN INDIVIDUAL; AND ROBERT  
NELSON, AN INDIVIDUAL,  
Respondents.

No. 72152

**FILED**

JUN 21 2018

ELIZABETH A. BROWN  
CLERK OF THE COURT  
BY   
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jason L. Lopez appeals from a district court order dismissing the underlying complaint for failure to timely effect service. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

In the proceedings below, appellant Jason Lopez filed suit against respondents on January 22, 2016. The parties informally agreed to extend the time for service due to ongoing negotiations. However, after negotiations began to break down, respondents informed Lopez that they would seek dismissal of the action. Lopez then filed a motion to enlarge time for service on an order shortening time on June 27, 2016. Respondents filed an opposition to the motion and a counter-motion to dismiss. After a hearing on the matter, the district court denied Lopez's motion to enlarge time, granted respondents' motion to dismiss, and awarded respondents \$2,500 in attorney fees as a sanction against Lopez. Lopez then filed a motion for reconsideration, respondents opposed and again sought an award of attorney fees, and the district court orally denied both the motion and counter-motion, and memorialized its ruling by way of a clerk's minute

order.<sup>1</sup> Following this decision, Lopez filed an “Emergency Supplemental Reply to Defendants’ Opposition to Plaintiff’s Motion for Reconsideration and Motion for Sanctions,” and respondents filed another counter-motion for attorney fees. The district court then entered a written order denying Lopez’s motion for sanctions, reaffirming that the motion for reconsideration was denied, and granting respondents’ counter-motion for attorney fees and costs. This appeal followed.

This court reviews an order dismissing a complaint for failure to effect timely service of process for an abuse of discretion. *Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 595, 245 P.3d 1198, 1200 (2010). Pursuant to NRCP 4(i), a plaintiff has 120 days after the filing of a complaint to serve the summons and complaint on the defendants, unless the plaintiff files a motion to enlarge the time for service and shows good cause as to why service could not be effectuated within the 120-day period. *See Saavedra-Sandoval*, 126 Nev. at 596, 245 P.3d at 1200-01. However, if the plaintiff does not file the motion to enlarge time within the 120-day period, the plaintiff must first demonstrate that good cause exists for his failure to file a timely motion to enlarge time, before showing that good cause also exists to enlarge the time for service. *Id.* at 596-97, 245 P.3d at 1201. The plaintiff’s failure to demonstrate good cause for the untimely motion to enlarge ends the district court’s inquiry. *Id.*

Here, Lopez filed his complaint on January 22, 2016. As such, his 120-day period to serve the complaint expired on May 21, 2016. But Lopez did not file his motion to enlarge time for service until June 27, 2016, over a month after the 120-day period for service expired. Accordingly, only

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<sup>1</sup>It appears from the record that this ruling was entered by Judge James Bixler, and no written order was ever entered. The remaining orders were issued by Judge Douglas Smith.

upon showing that good cause existed for his delay in filing the motion to enlarge time for service could the district court then go on to consider whether good cause also existed to enlarge the time for service of process. *See id.* at 597, 245 P.3d at 1201. But in his motion to enlarge time, as on appeal, Lopez only argues that good cause existed for his failure to timely serve the complaint. Lopez failed to address whether good cause existed for filing his motion to enlarge time for service outside of the 120-day service period. Accordingly, the district court did not abuse its discretion in denying Lopez's motion to enlarge time for service and granting respondents' motion to dismiss the complaint. *See id.* at 598, 245 P.3d at 1202.

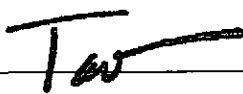
Lopez also appeals the district court's award of attorney fees to respondents, arguing generally that the decision was erroneous and there are no findings of fact included in the district court's order. However, Lopez notes that the district court made comments about the harassing nature of Lopez's filings on the record, but he nonetheless failed to provide the transcript from the hearing. We therefore must conclude that the missing transcript supports the district court's decision and that relief is not warranted on this issue. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (providing that the appellant is responsible for making an adequate appellate record and if "appellant fails to include necessary documentation in the record, we necessarily presume that the missing portion supports the district court's decision"); *Pease v. Taylor*, 86 Nev. 195, 197, 467 P.2d 109, 110 (1970) (explaining that "even in the absence of express findings, if the record is clear and will support the judgment, findings may be implied"). Additionally, Lopez makes no cogent argument relating to the district court's denial of his motion for reconsideration or grant of respondents' motion for additional attorney fees. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (stating that this court need not consider claims that

are not cogently argued or supported by relevant authority). Based on Lopez's lack of argument and our conclusion that the district court did not abuse its discretion in denying the initial motion to enlarge time for service and dismissing the complaint, we must also conclude that the district court did not err in the denial of the motion for reconsideration and grant of additional attorney fees.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

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

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

cc: Hon. Douglas Smith, District Judge  
Jason L. Lopez  
Maningo Law  
Eighth District Court Clerk

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<sup>2</sup>Insofar as Lopez also challenges the district court's grant of attorney fees after Judge Bixler orally denied that motion, the district court appears to have ruled on a separate request for attorney fees after Lopez filed his "Emergency Supplemental Reply" and, regardless, the district court was free to enter a final written order that was different from its oral ruling. *See Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 688-89, 747 P.2d 1380, 1382 (1987) (explaining that before "the entry of a final judgment the district court remains free to reconsider and issue a written judgment different from its oral pronouncement" and that "[t]he district court's oral pronouncement from the bench, the clerk's minute order, and even an unfiled written order are ineffective for any purpose").