

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES JACOB JORDAN,

No. 36861

Appellant,

vs.

RANDY PUTZER AND THE COUNTY OF
CARSON CITY,

Respondents.

FILED

AUG 08 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellant's complaint for being untimely under the applicable statute of limitations. Because appellant's complaint was filed too late, we affirm the district court's order.¹

On March 31, 1998, appellant James Jacob Jordan was taken into protective custody by the Carson City Sheriff's Department when he appeared at their office counter and allegedly exhibited signs of being mentally ill. On Thursday, March 30, 2000, Jordan mailed a proper person complaint alleging claims arising from this incident to the First Judicial District Court in Carson City. The district court clerk both received and filed the complaint on Monday, April 3, 2000. Jordan's amended complaint appears to allege claims for slander/libel, false imprisonment, false arrest, and battery. Under NRS 11.190(4), all of these causes of action have a two-year statute of limitations.

Respondents moved to dismiss the amended complaint as being time barred under the statute of limitations. Citing NRS 238.100, Jordan opposed the motion, arguing that his complaint should be deemed filed on the date it was mailed

¹The clerk of this court shall change the caption on this court's docket to conform to the caption on this order.

(March 30, 2000), rather than the date it was actually received and filed (April 3, 2000).² On September 29, 2000, the district court granted the motion to dismiss, and Jordan appealed.

We conclude that NRS 238.100 does not control the present case. Where both a specific statute and a general statute exist regarding the same subject, the more specific statute takes precedence.³ NRS 238.100, contained in a chapter regarding legal notices and advertisements, does not speak specifically to the filing of documents with the courts. In contrast, NRCP 3 and NRCP 5(e) directly address the filing of pleadings and other papers in civil proceedings.

Under NRCP 3, a civil action is commenced by filing a complaint with the district court. NRCP 5(e) defines "filing with the court" in the following manner: "The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court." Where a complaint is mailed to the court clerk for filing, courts have consistently held that the complaint is filed when actually received by the clerk, not when mailed by the sender.⁴ "Mailing court papers is 'merely one mode of transporting the necessary papers to the clerk's office where

²NRS 238.100, which is entitled "[d]ate of postmark deemed date of filing or payment," states in relevant part:

1. Except as provided in subsections 2 and 4, or by specific statute, any document or payment required or permitted by law or regulation to be filed or made by mailing to the state or any of its agencies or political subdivisions shall be deemed filed or made on the date of the postmark dated by the post office on the envelope in which it was mailed.

³See SIIS v. Miller, 112 Nev. 1112, 1118, 923 P.2d 577, 580 (1996).

⁴See, e.g., Torras Herreria v. M/V Timur Star, 803 F.2d 215, 216 (6th Cir. 1986); Lee v. Dallas Cty. Bd. of Ed., 578 F.2d 1177, 1178 n.1 (5th Cir. 1978).

the papers are to be filed by the Clerk.'"⁵ Thus, when papers are mailed to the clerk's office, filing is complete when the papers are received by the clerk.⁶ Accordingly, under NRCP 5(e), Jordan's complaint was not filed until April 3, 2000, when the district court clerk actually received and filed it. We therefore conclude that the district court did not err in dismissing his complaint, and we

ORDER the judgment of the district court AFFIRMED.

Young J.
Young
Leavitt J.
Leavitt
Becker J.
Becker

cc: Hon. Michael R. Griffin, District Judge
Carson City District Attorney
James Jacob Jordan
Carson City Clerk

⁵Scott v. United States Veteran's Admin., 749 F. Supp. 133, 135 (W.D. La. 1990) (emphasis in original).

⁶See Cooper v. City of Ashland, 871 F.2d 104 (9th Cir. 1989).