

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
BILL GUS ANDREWS,

JOHN LUCKETT,
Appellant,

vs.

UNITED TITLE COMPANY, INC.; AND
CHICAGO TITLE AGENCY OF
NEVADA, INC.,
Respondents.

IN THE MATTER OF THE ESTATE OF
BILL GUS ANDREWS,

JOHN LUCKETT,
Appellant,

vs.

UNITED TITLE COMPANY, INC.; AND
CHICAGO TITLE OF NEVADA, INC.,
Respondents.

No. 63209 ✓

FILED

JAN 21 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

No. 63906

ORDER OF AFFIRMANCE

These are unconsolidated pro se appeals arising out of the same probate matter. Docket No. 63209 is an appeal from a district court order granting a motion to set aside a judgment under NRCP 60(b)(4). Docket No. 63906 is an appeal from a district court order denying an NRCP 60(b) motion for relief from the order challenged in Docket No. 63209. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

In Docket No. 63209, appellant challenges a district court order granting respondents relief from a prior Nevada judgment that required them to satisfy a California judgment purportedly held by appellant against the estate of the deceased. On appeal, appellant first

argues that the district court improperly allowed respondents to intervene in the matter because NRS 12.130(1)(a) requires an intervening party to do so before trial. But no trial occurred in the district court action before respondents were permitted to intervene, and thus, this argument lacks merit. Moreover, appellant did not establish that he was prejudiced by any delay in respondents' filing of the motion to intervene. Under these circumstances, we conclude that the district court properly permitted respondents to intervene in the probate proceedings. See NRCP 24(a) (providing that a party may intervene as of right when the party claims an interest in the subject of the action and the resolution of the action may impair the party's ability to protect its purported interest, unless the interest is sufficiently represented by existing parties); *Lawler v. Ginochio*, 94 Nev. 623, 626, 584 P.2d 667, 668-69 (1978) (explaining that the timeliness of a motion to intervene is a matter within the district court's sound discretion and that the primary consideration "is not the length of the delay by the intervenor but the extent of prejudice to the rights of existing parties resulting from the delay").

Appellant next argues that the district court ignored relevant authority requiring an NRCP 60(b)(4) motion to be brought within six months after service of notice of entry of the judgment. But the case to which appellant cites, *In re Harrison Living Trust*, 121 Nev. 217, 112 P.3d 1058 (2005), only states that a motion challenging a judgment as void under NRCP 60(b)(4) must be brought "within a reasonable time." See NRCP 60(b). Here, the district court found that the motion was brought within a reasonable time, and this finding was supported by the record. See *In re Harrison Living Trust*, 121 Nev. at 222-23, 112 P.3d at 1061-62 (recognizing that the district court may consider lack of diligence and


equitable estoppel principles in determining whether a motion challenging a judgment as void was brought within a reasonable time). As a result, we conclude that the district court correctly found that respondents' NRCP 60(b)(4) motion was timely.


Finally, appellant contends that the district court improperly set aside the judgment because the judgment was not void, as service of the underlying motion seeking the judgment was properly made on attorney Steve Lane, who appellant asserts appeared on behalf of respondents. Nothing in the record, however, supports appellant's contention that Mr. Lane was counsel for respondents or made any appearances on their behalf. In particular, the fact that Mr. Lane, who appeared in the district court action on behalf of the estate and the executor, drafted a petition and an order that mentioned funds being held by respondent United Title Company, Inc., did not constitute an appearance on behalf of that entity. In light of the above, we conclude that the district court properly granted respondents' NRCP 60(b)(4) motion for relief from the judgment in this matter, and we therefore affirm the challenged order in Docket No. 63209. *See Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996) (explaining that the district court's decision to grant or deny an NRCP 60(b) motion will not be disturbed absent an abuse of discretion).

In Docket No. 63906, appellant challenges a district court order denying his motion for relief from the order addressed in Docket No. 63209. In seeking relief from that order in the district court, appellant did not establish any basis for relief under NRCP 60(b), as the new evidence submitted by appellant in support of his motion for relief did not establish that Mr. Lane represented respondents in the probate proceeding. *See*

NRCP 60(b) (setting forth the grounds for relief under that rule). As a result, we also affirm the order before us in Docket No. 63906. See *Cook*, 112 Nev. at 181-82, 912 P.2d at 265.

It is so ORDERED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Michael Villani, District Judge
John Luckett
Fidelity National Law Group
Eighth District Court Clerk

¹In Docket No. 63209, we deny appellant's April 3, 2014, motion to strike the appealed final order in light of our conclusions herein. Also in Docket No. 63209, because appellant has withdrawn his September 9, 2013, motion to strike a pre-sentencing report, no action will be taken as to that motion. Finally, in light of this order, we deny as moot any other requests for relief pending in these consolidated appeals.