

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

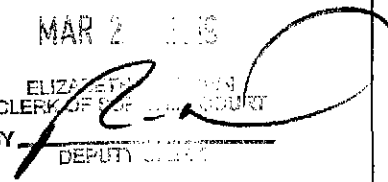
RICHARD LEE CANTERBURY,  
Appellant,  
vs.  
CLARK COUNTY DETENTION  
CENTER,  
Respondent.

No. 76633-COA

FILED

MAR 2 2018

ELIZABETH J. BROWN  
CLERK OF SUPERIOR COURT

BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Richard Lee Canterbury appeals from a district court order dismissing his civil rights complaint. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

Canterbury's complaint was filed on March 15, 2018. On July 18, 2018, the district court, on its own initiative, entered an order dismissing the case pursuant to NRCP 4(i) because Canterbury failed to serve the summons and complaint within 120 days. This appeal followed.

NRCP 4(i) provides that "[i]f a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed . . . upon the court's own initiative with notice to such party" unless the party required to effectuate service files a motion to enlarge the time for service and shows good cause

for the failure to timely serve.<sup>1</sup> Pursuant to NRCP 4(i) “the district court is limited to enlarging the time for service only upon a motion to enlarge the 120-day service period.” *Saavedra-Sandoval v. Wal-Mart Stores*, 126 Nev. 592, 596, 245 P.3d 1198, 1201 (2010) (internal quotations omitted).


In this matter, the complaint was filed on March 15, 2018, and service was to be effected on or before July 13, 2018. Canterbury, however, never effectuated service. On appeal, he argues that the district court erred in failing to arrange for proper service. But there is no authority providing that it is the district court’s responsibility to arrange for service on behalf of indigent litigants, and while NRS 12.015(2)(b) provides for the sheriff or other appropriate public officer to make personal service without charge for indigent litigants, the record does not show that Canterbury properly requested or arranged for the sheriff or other appropriate public officer to effectuate service pursuant to the applicable rules and procedures. See *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. \_\_\_, \_\_\_, 428 P.3d 255, 258-59 (2018) (noting that procedural rules cannot be applied differently to pro se litigants and that “a pro se litigant cannot use his alleged ignorance as a shield to protect him from the consequences of failing to comply with basic

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<sup>1</sup>The record demonstrates that the district court failed to provide notice to Canterbury prior to dismissing the matter on service grounds as required by NRCP 4(i). But on appeal, Canterbury presents no arguments regarding the district court’s failure to notify him prior to dismissing his case. As a result, he has waived any such argument, and we do not consider this issue in resolving his appeal. See *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (stating that issues not raised in appellant’s opening brief are waived).

procedural requirements"). As Canterbury did not timely effect service and did not seek additional time to do so, the district court was required to dismiss his complaint pursuant to NRCP 4(i). Accordingly, we

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

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Kimberly A. Wanker, District Judge  
Richard Lee Canterbury  
Attorney General/Carson City  
Nye County Clerk

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<sup>2</sup>To the extent Canterbury has sought any further relief in this court, in light of this order, we deny any such requests as moot.