

IN THE SUPREME COURT OF THE STATE OF NEVADA

TYRONE GEORGE DUFF,
Appellant,

vs.

THE STATE OF NEVADA, THE SECOND
JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA, IN AND FOR THE
COUNTY OF WASHOE, AND THE
HONORABLE SCOTT JORDAN,
DISTRICT JUDGE, FAMILY COURT
DIVISION,
Respondents.

No. 36962

FILED

MAY 07 2003

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order dismissing appellant's complaint with prejudice and awarding attorney fees.

In reviewing an order granting a motion to dismiss, this court's task is to determine whether or not the challenged pleading sets forth allegations sufficient to make out the elements of a right to relief.¹ In addition, all inferences must be construed in favor of the non-moving party, and all factual allegations in the complaint must be accepted as true.²

¹Edgar v. Wagner, 101 Nev. 226, 699 P.2d 110 (1985); NRCP 12(b)(5).

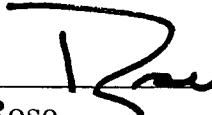
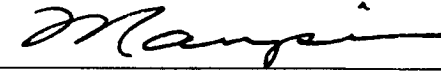
²Breliant v. Preferred Equities Corp., 109 Nev. 842, 845, 858 P.2d 1258, 1260 (1993).


If a district court finds that a claim was brought without reasonable grounds, it may award attorney fees.³ The decision to award attorney fees is within the sound discretion of the district court.⁴

Having reviewed the record in this matter, we conclude that the district court properly dismissed the complaint.⁵ Moreover, we conclude that the district court did not abuse its discretion when it ordered appellant to pay attorney fees.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁶

 _____, J.  _____, J.
Rose Maupin

 _____, J.
Gibbons

³See NRS 18.010(2)(b).

⁴Allianz Ins. Co. v. Gagnon, 109 Nev. 990, 995, 860 P.2d 720, 724 (1993).

⁵See Ashelman v. Pope, 793 F.2d 1072, 1075 (9th Cir. 1986) (stating that “[j]udges are immune from damage actions for judicial acts taken within the jurisdiction of their courts”); Duff v. Lewis, 114 Nev. 564, 958 P.2d 82 (1998) (noting that absolute judicial immunity assures that judges’ function without harassment or intimidation); see also Coronet Homes, Inc. v. Mylan, 84 Nev. 435, 442 P.2d 901 (1968) (recognizing that granting a restraining order is discretionary with the district court).

⁶Although appellant was not granted leave to file papers in proper person, see NRAP 46(b), we have considered the proper person documents received from him.

cc: Hon. Mario G. Recanzone, Senior Judge
Attorney General Brian Sandoval/Carson City
Tyrone George Duff
Washoe District Court Clerk