

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KIM BLANDINO,
Appellant,
vs.
THE HONORABLE DOUGLAS W.
HERNDON, DISTRICT JUDGE,
Respondent.

No. 76794-COA

FILED

JUL 24 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kim Blandino appeals from a district court order declaring him a vexatious litigant and dismissing his complaint. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

Prior to initiating the proceedings below, Blandino sought to appear amicus curiae in an unrelated criminal matter by appearing at a motion hearing with the defendant in that case. The district court judge in that case, respondent here, denied Blandino's oral request to make a record and subsequently found Blandino was being disruptive and removed him from the courtroom. Blandino then filed a motion seeking to have Judge Herndon disqualified, which was denied, and Blandino filed the instant complaint, apparently attempting to assert a grievance against respondent based on the above-described interaction, allegedly as contemplated by NRS 3.026. The district court here issued an order to show cause why the complaint should not be dismissed and why Blandino should not be deemed a vexatious litigant.

After a hearing, the district court found that Blandino's complaint in this matter appeared to be filed as a result of the court's denial of his motion to have respondent disqualified from the criminal action, and that his numerous filings in a number of cases were harassing, frivolous, and extremely burdensome to the district court. Additionally, the court found that Blandino's continued attempt to act as counsel for other litigants, although not a licensed attorney, and as an interloper in cases in which he is not a party was frivolous, disruptive to the rights of litigants, and extremely burdensome to the district court. Accordingly, the court concluded that Blandino's filings in this matter were intended to harass, that they were made for an improper purpose, and that his complaint was without any basis in law or fact. Accordingly, the court determined that Blandino was a vexatious litigant, entered an order limiting his ability to file documents in the Eighth Judicial District Court, and dismissed the complaint at issue. This appeal followed.

On appeal, Blandino challenges the district court's order, asserting that his complaint raised an issue of first impression such that it was not frivolous. And because his complaint was not frivolous, he asserts that he could not be declared a vexatious litigant. This court reviews restrictive orders limiting vexatious litigants from accessing the courts for an abuse of discretion. *Jordan v. State ex rel. Dep't of Motor Vehicles & Pub. Safety*, 121 Nev. 44, 62, 110 P.3d 30, 44 (2005), *abrogated on other grounds by Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n.6, 181 P.3d 670, 672 n.6 (2008).

Because vexatious litigant orders limit a litigant's right to access the courts, the orders must meet four factors: (1) the litigant must first receive notice and an opportunity to oppose such a sanction, to protect the litigant's due process rights; (2) the district court must create an adequate record for review to explain the reason a restrictive order was needed to stop repetitive or abusive conduct; (3) the district court must make substantive findings as to the frivolous or harassing nature of the conduct; and (4) the order must be narrowly drawn to address the specific problem. *Id.* at 60-62, 110 P.3d at 42-44. The restrictions imposed by a vexatious litigant order may include prohibiting the litigant from filing future actions against a particular party or from filing new actions without first demonstrating to the court that the proposed case is not frivolous. *Peck v. Crouser*, 129 Nev. 120, 123, 295 P.3d 586, 587 (2013).

Here, Blandino contends the district court failed to apply any of the four-part analysis required by *Jordan*. We disagree. First, based on our review of the record, it is clear that the district court provided Blandino with notice and an opportunity to be heard as the district court issued an order to show cause, including a detailed description of the court's concerns regarding Blandino's conduct, set the matter for a hearing, and allowed Blandino time to respond to the order. The court then held a hearing on the order to show cause at which Blandino appeared, presented documents, and made arguments. We note that the court then took the matter under advisement so that it could review the documents Blandino submitted at the hearing and issued its written order at a later date. Additionally, the district court made a detailed record explaining the reason the restrictive

order was needed to stop Blandino's repetitive and abusive conduct. The district court's order includes a list of other actions in which Blandino filed documents or attempted to appear on behalf of others, and attached several orders from other cases in the district court, supporting the court's conclusion that Blandino's conduct was not only disruptive to the parties, but was repetitive, frivolous, and burdensome.

Further, as noted above, the district court also made detailed findings regarding the harassing, frivolous, and burdensome nature of Blandino's conduct, and that his filing in this case was without any legal or factual basis. And finally, the court's order is narrowly tailored to address the specific problem. Notably, the court's order restricts Blandino from standing in front of the bar or at counsel table in any hearing in which he is not a party (unless subpoenaed as a witness or juror); restricts him from filing any new materials in this case without first obtaining leave of the Chief Judge; and restricts him from filing any new litigation as a proper person in the Eighth Judicial District Court (EJDC) without first obtaining leave from the Chief Judge of the EJDC. Moreover, the order provides specific procedures by which Blandino may seek permission to file and provides that, upon review, it must be determined that the proposed filing is non-frivolous and made in good faith. *See Jordan*, 121 Nev. at 60-62, 110 P.3d at 42-44. Thus, based on our review of the record, we cannot conclude that the district court abused its discretion in declaring Blandino a vexatious litigant. *See id.* at 62, 110 P.3d at 44.

As to Blandino's assertion that his complaint was not frivolous because he raised an issue of first impression, Blandino contends that his

complaint sought to require the Chief Judge to follow NRS 3.026. The relevant portion of NRS 3.026 provides that the Chief Judge of the district court shall establish procedures for addressing grievances the Chief Judge receives from a party in a case, within the district court's jurisdiction, that directly relates to the administration of the case and not the merits or any ruling in the case. NRS 3.026(1)(b), (2).

As an initial matter, Blandino fails to provide any cogent argument to support his assertion that his complaint seeks to require the Chief Judge to follow NRS 3.026. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006). Regardless, to the extent Blandino also seems to assert that his complaint was intended to be a grievance pursuant to NRS 3.026(1)(b), nothing in that rule provides for a civil complaint to be filed when submitting a grievance to the Chief Judge regarding another judge. Rather, the rule merely requires the Chief Judge to establish procedures for addressing those grievances, once received. *See* NRS 3.026(1)(b). And even if a civil complaint could be filed as a method of submitting a grievance to the Chief Judge, NRS 3.026 addresses procedures for processing grievances from parties. And here, appellant was not a party to the criminal case in which he sought to make a record and which gave rise to the instant complaint. Thus, based on our review of the record, we discern no error in the district court's finding that there was no legal basis for the complaint, determining the filing was vexatious, and dismissing the complaint. *See Jordan*, 121 Nev. at 56, 110 P.3d at 40 (explaining that the district court may sanction a party, including dismissing a complaint, to prevent him or her "from continuing in a course of completely baseless

litigation or harassment”); *see also Buzz Stew*, 124 Nev. at 227-28, 181 P.3d at 672 (explaining that this court will affirm the decision to dismiss a complaint for failure to state a claim when the complaint’s factual allegations do not entitle a plaintiff to relief under the claims asserted).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹As to Blandino’s arguments and requests for relief arising from matters outside of the instant action, we decline to consider those matters as our review is limited to the district court record in this case. *See* NRAP 10; *Carson Ready Mix, Inc. v. First Nat’l Bank of Nev.*, 97 Nev. 474, 476, 635 P.2d 276, 277 (1981). And insofar as Blandino raises additional arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal. We likewise deny all other requests for relief currently pending before this court.

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Kim Blandino
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk