

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROY DANIELS MORAGA,
Appellant,
vs.
C/O FONSECA,
Respondent.

No. 80956-COA

FILED

NOV 25 2020

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

ORDER OF AFFIRMANCE

Roy Daniels Moraga appeals from an order dismissing his complaint for failure to demonstrate proof of service on respondent. First Judicial District Court, Carson City; James E. Wilson, Judge.

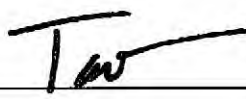
Moraga filed the underlying complaint against respondent C/O Fonseca seeking damages for injuries he allegedly suffered when a plexiglass window was closed on his finger. On February 27, 2020, the district court entered an order noting that the court had not received proof of personal service on Fonseca even though the complaint had been pending since April 12, 2019. As a result, Moraga was directed to file proof of personal service of the summons and complaint on Fonseca by March 16, 2020, and was informed that, if he failed to do so, his complaint would be dismissed. When Moraga failed to file proof of service in the district court or otherwise respond within the time allowed, the district court dismissed the action based on his failure to respond and this appeal followed.

On appeal, Moraga asserts that the district court improperly dismissed the case because he should have been given an additional three days for mailing—beyond the March 16 deadline—to effect service on Fonseca. But Moraga misunderstands the district court's February 27

order. That order directed him to file his proof of prior personal service of the summons and complaint on Fonseca in the district court by March 16, not to effect service on him by that date. Indeed, the time to serve Fonseca had long since expired at the time of the district court's February 27 order. See NRCP 4(e) (setting for the time in which service of process must be completed). And despite Moraga's arguments to the contrary, a review of the record provides nothing to support his claims that he had properly effected personal service on Fonseca in accordance with NRCP 4(c) (discussing how service of process is completed). Under these circumstances, and given Moraga's failure to timely respond to the district court's February 27 order, we discern no abuse of discretion in the district court's decision to dismiss Moraga's complaint. See *Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 595, 245 P.3d 1198, 1200 (2010) (reviewing a dismissal for failure to demonstrate that the plaintiff had timely effected service of process for an abuse of discretion). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James E. Wilson, District Judge
Roy Daniels Moraga
Attorney General/Carson City
Carson City Clerk