

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GLORIA C. YASOL,  
Appellant,  
vs.  
DONNA GREENHILL; AND LYLE M.  
GREENHILL,  
Respondents.

No. 74683-COA

**FILED**

FEB 18 2021

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

*ORDER AFFIRMING IN PART, REVERSING IN PART,  
VACATING IN PART, AND REMANDING*

Gloria C. Yasol appeals from a district court judgment entered after a bench trial in a tort action. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

This case arises out of a long-standing dispute between appellant, Gloria Yasol, and respondents, Donna and Lyle Greenhill (the Greenhills), regarding the use and ownership of a five-foot easement located between their respective properties.<sup>1</sup> The Greenhills asserted that Yasol and her son continuously harassed their tenants and trespassed on their property from the time Yasol purchased the house next door in 2010. Yasol,

---

<sup>1</sup>At the time of the initial dispute, both parties owned adjacent properties that shared a common boundary line. As relevant here, the Greenhill lot reserved a five-foot easement for the benefit of Yasol's lot. The easement extends five feet from the wall of the Greenhill property's garage. The terms of the easement permit Yasol to maintain and use the easement land for "sideyard purposes." However, a declaration of covenants and restrictions prohibits Yasol's dominant estate from placing "planting or landscaping" that may interfere with the maintenance to the structure granting the easement, and it directs the owner of the dominant estate to allow "periodic access to easement areas for inspections and repairs to the homes of property owners granting the easement."

on the other hand, believed that she owned the five-foot easement and asserted that the Greenhills were trespassing on her property.<sup>2</sup> Due to this belief, Yasol acted to prevent the Greenhills and their tenants from accessing that portion of “her property,” including placing a small barrier of plastic planters and cinderblocks, along with a “no trespassing” sign, along the Greenhill property driveway. The placement of these cinderblocks and planters were such that any persons who wished to access the north side of the Greenhills’ home would have to enter Yasol’s property, instead of traversing the easement.

After a number of disputes, and amid escalating tensions between Yasol and Donna Greenhill, the Greenhills filed a complaint in district court in November 2012 alleging trespass, nuisance, conversion, and intentional interference with contractual relations, along with a request for injunctive relief. The Greenhills alleged that Yasol was interfering with their landlord-tenant relationships, trespassing on their property, creating a nuisance in several ways, and acting outside the scope of the easement.

The Greenhills sought a preliminary injunction, which Yasol opposed pro se. At a hearing, the district court granted a preliminary injunction that required Yasol to remove the planters and cinderblocks that formed a barrier on the easement, and prohibited Yasol from placing personal property on the disputed land. The district court orally ordered Yasol to comply with the preliminary injunction by April 30, 2013, warning that it would hold Yasol in contempt if she failed to comply.

---

<sup>2</sup>We do not recount the facts except as necessary to our disposition.

Despite the district court's oral ruling, it did not enter its written order until May 17, 2013,<sup>3</sup> and counsel for the Greenhills did not post the surety bond until June 17, 2013. Nonetheless, on June 12, 2013—five days before the preliminary injunction went into effect—the Greenhills filed a motion for an order to show cause, along with supporting affidavits, seeking to hold Yasol in contempt for failing to remove the planters on the property before April 30, 2013. The district court then issued an order to show cause, directing Yasol to appear on July 2, 2013, and explain why she should not be held in contempt for violating the preliminary injunction.

Yasol filed an opposition and represented herself pro se during the contempt hearing. Yasol acknowledged that she had failed to comply with the preliminary injunction and that the planters and cinderblocks remained in their original position at the time of the hearing. Consequently, the district court found Yasol in contempt, issued a \$100 sanction, and required Yasol to pay \$2,750 for the Greenhills' attorney fees as set forth in NRS 22.100(2)-(3). Sometime thereafter, Yasol removed the barrier and other personal property from the easement.

The Greenhills attempted to get Yasol to pay the \$2,850 in the combined fine and attorney fees sanctions, filing other motions for orders to show cause and eventually scheduling a judgment debtor exam. However, Yasol maintained that she was unable to pay the sanctions because she lived on social security and had a fixed income. Following these unsuccessful attempts to receive payment, the case entered a relative lull in the proceedings from early 2014 until September of 2015, when the case was

---

<sup>3</sup>Yasol appealed, and the supreme court ultimately affirmed the order granting the preliminary injunction. *See Yasol v. Greenhill*, Docket No. 63085 (Order of Affirmance, May 14, 2014).

administratively reassigned to a new department. The district court then entered an order to show cause why the case should not be dismissed for lack of prosecution.

At this point, Yasol obtained pro bono counsel, who represented her for most of the remaining proceedings below. Purportedly believing that the preliminary injunction was no longer in effect due to the case's reassignment to a new department, Yasol moved the planters and cinderblocks back onto the easement. Thus, the Greenhills again sought to have Yasol held in contempt for violating the preliminary injunction. Following another hearing on an order to show cause held on May 10, 2016, the district court again found Yasol in contempt of the preliminary injunction but instead of imposing additional sanctions, the court orally directed Yasol to complete 270 hours of community service in lieu of paying the \$2,850 from the original contempt order.

Thereafter, the district court scheduled regular monthly status checks to ensure compliance with the order, but Yasol did not complete the community service requirements, stating that her medical condition prevented compliance with the court's order. After Yasol's counsel reported that she had failed to complete community service at the two status checks held on June 15 and July 13, 2016, the Greenhills filed another motion for an order to show cause asking the district court to find Yasol in contempt for her continued violation of the preliminary injunction, and for her failure to complete community service.

The district court heard this order to show cause on August 24, 2016. At the hearing on the motion, the district court orally ordered Yasol to either pay \$500 of the original sanctions before the next hearing (scheduled for September 7) or spend 5 days in jail. The district court then



orally ordered Yasol to pay \$500 every four weeks until the original sanction and attorney fee award was satisfied. If Yasol failed to pay, she would face jail time.

Ultimately, Yasol failed to pay the \$500 before the next hearing, which was held on September 14, 2016. At this time, Yasol's trial counsel informed the district court that there was no written order from the May 10 hearing on the community service issue and that there were no written orders for the three hearings following the initial community service hearing, including the hearing where the district court advised Yasol that she would be jailed if she failed to pay \$500.<sup>4</sup>

The district court continued the hearing and instructed counsel for the Greenhills to prepare a written order for the hearings that occurred in May, June, July and August, and again informed Yasol that she would be jailed if she failed to pay \$500 before the next hearing. Afterwards, counsel for the Greenhills submitted a combined order for the initial community service hearing, the two status checks regarding Yasol's compliance with the community service order, and the final hearing where the district court found Yasol in contempt for failing to comply with its community service orders. The district court entered this order one day before the next hearing.

At the final contempt hearing held on September 21, 2016, Yasol had not paid the \$500. Consequently, the district court informed Yasol that she had the choice between continuing to pay \$500 monthly (or staying five days in jail for each month she failed to pay \$500) until she paid off the

---

<sup>4</sup>At this hearing, Yasol's counsel suggested that 48 hours of jail time would be appropriate. However, the district court rejected that suggestion, and instead stated that 28 days in jail would be sufficient to account for the outstanding \$2,850 in sanctions and attorney fees.

original \$2,850 in sanctions, or spending 28 consecutive days in jail to satisfy the entire amount at once. Yasol informed the court that she would spend the 28 days in jail as she was financially unable to pay the sanctions, and the district court remanded her into custody.

This case eventually proceeded to trial in June 2017 where, after hearing the testimony of Donna Greenhill, Yasol, and Yasol's son, the district court found in favor of the Greenhills on their nuisance, trespass, and intentional interference with contractual relations claims, and awarded punitive damages.<sup>5</sup> The district court also awarded \$250 to Yasol for her counterclaim for trespass but deducted Yasol's award from the final judgment. Ultimately, the district court entered judgment in favor of the Greenhills in the amount of \$13,150, which included a \$2,750 punitive damages award, and awarded \$6,462.44 in attorney fees and costs to the Greenhills.<sup>6</sup> Thus, the district court's total award to the Greenhills equaled \$19,612.44.

Yasol presents three primary issues on appeal: (1) whether the district court erred in granting the preliminary injunction; (2) whether the district court abused its discretion when it found Yasol in contempt; and (3) whether the district court relied on inadmissible hearsay evidence when

---

<sup>5</sup>Because the Greenhills sold their home prior to trial, the district court dismissed their claim for permanent injunctive relief as moot. The Greenhills also "abandoned" their claims for conversion at trial.

<sup>6</sup>We note that Yasol does not challenge the punitive damage award or the attorney fee award on appeal. Therefore, we do not address them here. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) ("Issues not raised in an appellant's opening brief are deemed waived.").

rendering its final judgment following the bench trial.<sup>7</sup> We address each issue in turn.

*Whether the district court erred in granting the preliminary injunction*

Yasol first challenges the district court's order granting the preliminary injunction, arguing that her purported trespass onto the Greenhills' property did not constitute irreparable harm. However, as we indicated above, the supreme court already decided this exact issue in Yasol's 2013 appeal regarding the entry of the preliminary injunction. In that order, the supreme court concluded that, after a review of the record and appellant's arguments, it was "not persuaded that the district court's issuance of the preliminary injunction at issue here was an abuse of discretion." *Yasol v. Greenhill*, Docket No. 63085 (Order of Affirmance, May 14, 2014).

Because our supreme court already addressed the preliminary injunction in the previous appeal, the law-of-the-case doctrine precludes further appellate review of this issue and we decline to revisit it here. *Hsu v. Cty. of Clark*, 123 Nev. 625, 629, 173 P.3d 724, 728 (2007) (explaining that "[t]he doctrine of the law of the case provides that the law or ruling of a first

---

<sup>7</sup>Yasol also argues that because the district court erroneously granted the preliminary injunction, and because the district court erroneously held Yasol in contempt, it was "impossible . . . for Yasol to receive a fair trial from an impartial court." Therefore, Yasol argues that this court should "overturn" the final judgment of the district court. But Yasol does not point to any evidence in support of the proposition that the district court judge lacked impartiality when presiding over the bench trial. Accordingly, we decline to address this issue. See *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues that are not supported by relevant authority or cogent argument).

appeal must be followed in all subsequent proceedings, both in the lower court and on any later appeal”).<sup>8</sup>

*Whether the district court abused its discretion when finding Yasol in contempt*

Next, we consider the district court’s contempt orders. On appeal, Yasol challenges the district court’s contempt orders and describes a number of errors throughout the contempt proceedings below, and alleges that the district court abused its discretion when finding Yasol in contempt. The Greenhills, on the other hand, contend that the district court was well within its discretion when holding Yasol in contempt due to Yasol’s flagrant violations of the preliminary injunction and subsequent contempt order directing Yasol to pay a contempt penalty consisting of a \$100 sanction and \$2,750 in attorney fees.

Specifically, Yasol alleges that the first contempt order was improper because the preliminary injunction was not in effect at the time the Greenhills filed their first motion for an order to show cause, as the written order granting the preliminary injunction was not filed until May 17, 2013, and the surety bond was not posted until June 17, 2013. Because the preliminary injunction was not in effect at the time the Greenhills filed

---

<sup>8</sup>We decline to accept Yasol’s invitation to adopt the manifest injustice exception to the law-of-the-case doctrine, as our supreme court has not formally adopted this exception. *See Hsu*, 123 Nev. at 630, 173 P.3d at 728-29 (adopting the “change in controlling law” exception to the law-of-the-case doctrine, but declining to consider whether Nevada should formally adopt the “substantial new evidence” or “manifest injustice” exceptions to the doctrine).



their motion for an order to show cause on June 12, 2013, Yasol contends that holding her in contempt on those grounds was an abuse of discretion.<sup>9</sup>

The Greenhills, on the other hand, counter these assertions by arguing that this court should not look to the date the preliminary injunction became effective, or the date on which they filed their initial motion for an order to show cause, but rather the fact that at the time of the contempt hearing on July 2, 2013, Yasol still had not complied with the court's order.

This court reviews orders of contempt for abuse of discretion. *In re Water Rights of the Humboldt River*, 118 Nev. 901, 907, 59 P.3d 1226, 1230 (2002). A district court abuses its discretion when it “bases its decision on a clearly erroneous factual determination or it disregards controlling law.” *MB Am., Inc. v. Alaska Pac. Leasing*, 132 Nev. 78, 88, 367 P.3d 1286, 1292 (2016); *see also Bergmann v. Boyce*, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993), *superseded by statute on other grounds as stated in In re DISH Network Derivative Litig.*, 133 Nev. 438, 451 n.6, 401 P.3d 1081, 1093 n.6 (2017) (holding that a decision made “in clear disregard of the guiding legal principles [can be] an abuse of discretion”).

Before we address Yasol's specific contentions on appeal, it is necessary for this court to determine whether the contempt proceedings below were criminal or civil in nature, and whether Yasol's conduct constituted direct or indirect contempt. And although these particular issues were not briefed by the parties on appeal, we nonetheless include a discussion of them here as they inform our review of the contempt proceedings below.

---

<sup>9</sup>We need not address Yasol's other contentions on appeal given our disposition in this order.

### *Contempt Generally*

“While courts have inherent power to protect and defend their decrees by contempt proceedings . . . they are nevertheless bound by statute.” *See Awad v. Wright*, 106 Nev. 407, 410, 794 P.2d 713, 715 (1990) (internal citation and quotation marks omitted), *abrogated on other grounds by Pengilly v. Rancho Santa Fe Homeowners Ass’n*, 116 Nev. 646, 650, 5 P.3d 569, 571 (2000). Thus, the determination of whether a contempt proceeding (and the subsequent penalty) is civil or criminal in nature, and the determination of whether the contempt proceeding is for direct or indirect contempt under NRS 22.030 provides the foundation of our review of this issue.

The distinction between civil and criminal contempt is vital to the determination of the rights and remedies that the court affords to the contemnor, as criminal contempt proceedings entitle the contemnor to many of the procedural safeguards associated with a criminal trial. *See Lewis v. Lewis*, 132 Nev. 453, 458, 373 P.3d 878, 881 (2016) (holding that because a district court’s contempt order was criminal in nature, appellant’s “Sixth Amendment right to counsel was violated when the contempt order was entered after proceedings in which he was not represented by counsel”); *City Council of Reno v. Reno Newspapers, Inc.*, 105 Nev. 886, 893, 784 P.2d 974, 979 (1989) (applying the beyond-a-reasonable-doubt standard of proof to criminal contempt proceedings). On the other hand, civil contempt proceedings generally “do not require extensive procedural protections or due process safeguards, beyond basic due process, since a civil contemnor may purge the contempt and be absolved of the civil contempt sanction.” 17 C.J.S *Contempt* §89 (2020) (footnotes omitted).

When determining whether a contempt order is civil or criminal, the court must consider (1) whether the sanction is punitive or remedial, (2)

whether the sanction is conditional or determinate, and (3) whether the contempt order contains a purge clause, allowing a contemnor to stop all sanctions upon compliance with the court's order. *Lewis*, 132 Nev. at 457, 373 P.3d at 880-81.

Here, the district court's orders were criminal in nature, as they were designed to punish Yasol for her noncompliance. And the sanctions from the contempt orders impose a determinate sentence. The punitive nature of these contempt awards is further evinced by the fact that the district court continually attempted to enforce the monetary sanctions of the initial contempt order, even after Yasol removed her property from the easement area, thereby remedying her violation of the preliminary injunction. Moreover, the district court's contempt orders failed to include a purge clause. Thus, while the contempt proceedings may have been initiated to coerce Yasol into compliance with the preliminary injunction, the district court's orders were criminal in nature. *See id.*

Likewise, other procedural safeguards and considerations exist within the determination of whether the contemptuous conduct constituted direct or indirect contempt. Unlike direct contempt, which occurs in the presence of the district court, indirect contempt occurs outside of the courtroom, and requires an affidavit detailing how the contemnor is in contempt. *See Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 827 n.2 (1994) (observing that only direct contempt, which occurs "in the court's presence[,] may be immediately adjudged and sanctioned summarily"); *see also* NRS 22.030.

Here, Yasol's allegedly contemptuous acts center on her violation of several court orders. As these contemptuous acts occurred outside the presence of the district court judge, the district court must utilize

the proper procedures for indirect contempt when holding a contempt hearing.

In Nevada the procedure for indirect contempt is codified in NRS 22.030(2), which provides in relevant part: “[w]hen the contempt is not committed in the immediate view and presence of the court or judge at chambers, an affidavit shall be presented to the court or judge of the facts constituting the contempt, or a statement of the facts by the masters or arbitrators.” Such affidavits are critical in contempt proceedings, and provide the jurisdictional basis for the court’s contempt power.

Indeed, Nevada has recognized that the “court presiding over indirect contempt proceedings acquires no jurisdiction to proceed until a sufficient affidavit is presented.” *Awad*, 106 Nev. at 409, 794 P.2d at 715 (1990) (internal citation omitted). And, when a district court exceeds its jurisdictional authority to issue a contempt order, such as when the affidavit lacks sufficient facts to state a prima facie case for contempt, it is a manifest abuse of discretion. *See Pengilly*, 116 Nev. at 650, 5 P.3d at 571-72.

It must also be stated that all findings of contempt for a failure to comply with a court order must be based upon a valid, written order, as

[t]he need for clarity and lack of ambiguity are especially acute in the contempt context. An order on which a judgment of contempt is based must be clear and unambiguous, and must spell out the details of compliance in clear, specific and unambiguous terms so that the person will readily know exactly what duties or obligations are imposed on him.

*See State, Div. of Child & Family Servs. v. Eighth Judicial Dist. Court*, 120 Nev. 445, 454-55, 92 P.3d 1239, 1245 (2004). Thus, “[a] court order which does not specify the compliance details in unambiguous terms cannot form the basis for a subsequent contempt order.” *Id.*



Accordingly, in cases of indirect contempt for violating a court order, the district court must ensure (1) that it has entered a clear and unambiguous written order that has been signed, entered, and filed; and (2) that the affidavit on which the contempt is based provides sufficient allegations of the alleged contempt, and complies with the provisions of NRS 22.030. Finally, in all cases of contempt, the district court must consider whether the contempt penalty will be civil or criminal in nature, and conduct the hearing and subsequent contempt order accordingly.

Having determined that the contempt proceedings here imposed a criminal penalty, and having determined that the contempt proceedings below were indirect contempt proceedings, we now address Yasol's contentions on appeal.

*First Contempt Proceeding (monetary sanctions)*

Here, Yasol challenges the first contempt proceeding on the ground that the Greenhills filed their motion for the initial order to show cause before the preliminary injunction became effective. The Greenhills, on the other hand, contend that this court can ignore the timing and circumstances of the initial motion for an order to show cause as Yasol had not complied with the preliminary injunction at the time of the contempt hearing. We agree with Yasol.

As discussed above, orders for contempt must be based upon a valid, written order. Here, the preliminary injunction was certainly a valid order, but, at the time the Greenhills filed their motion for an order to show cause, the injunction was void as the Greenhills did not post the bond required by the district court. See NRCP 65(c) ("The court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined

or restrained.”); *Strickland v. Griz Corp.*, 92 Nev. 322, 323, 549 P.2d 1406, 1407 (1976) (“Where a bond is required by statute before the issuance of an injunction, it must be exacted or the order will be absolutely void.” (internal quotation marks omitted)). Thus, the preliminary injunction was void until the Greenhills posted the bond on June 17, 2013.

Further, even though the Greenhills eventually posted the bond before the time of the hearing, the affidavit attached to their motion for an order to show cause is facially deficient, as it refers only to the contemptuous acts that Yasol committed *before* the injunction became effective. Such a defect is jurisdictional, and we therefore vacate the district court’s contempt order entered on July 26, 2013.<sup>10</sup>

*Second Contempt Proceeding (community service)*

The second set of contempt proceedings—spanning the time period from May to August and resulting in the district court’s order finding Yasol in contempt on September 20, 2016—are likewise deficient as the district court found Yasol to be in contempt of several oral orders to perform community service. In this instance, the district court entered its order directing Yasol to complete community service in the same document in which it held Yasol in contempt for failing to complete community service. As a result, the district court’s order holding Yasol in contempt for failing to complete her community service requirement was based upon an

---

<sup>10</sup>We also note in passing that procedural defects in this initial contempt proceeding are separate grounds for vacating the district court’s contempt order. *See Lewis*, 132 Nev. at 461, 373 P.3d at 883 (concluding that the right to counsel applies in criminal contempt proceedings and vacating the court’s contempt order in similar circumstances.); *see also Cooke v. United States*, 267 U.S. 517, 537 (1925) (acknowledging that due process in a criminal contempt proceeding “includes the assistance of counsel”).

unenforceable oral order. *See State, Div. of Child & Family Servs.*, 120 Nev. at 454-55, 92 P.3d at 1245 (2004) (explaining that “[a]n order on which a judgment of contempt is based must be clear and unambiguous,” and oral orders, as relevant here, are ineffective (internal quotation omitted)); *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987) (providing that the district court’s oral pronouncement from the bench is ineffective for any purpose).

Moreover, it appears that the September 21, 2016, hearing, where the district court sentenced Yasol to 28 days in jail in lieu of her paying the \$2,850 penalty from the initial 2013 contempt proceeding, was not an additional contempt proceeding, but rather was the direct result of the penalty imposed in the district court’s September 20 contempt order directing Yasol to pay \$500 of the \$2,850 sum or go to jail. Accordingly, we conclude that the October 17 order is inextricably tied to the invalid September 20 order and vacate both orders, as an invalid oral order cannot form the basis of a contempt proceeding. *See State, Div. of Child & Family Servs.*, 120 Nev. at 454-55, 92 P.3d at 1245.<sup>11</sup>

---

<sup>11</sup>To the extent that the September 21 hearing was a separate contempt proceeding, we conclude that this was an abuse of discretion, as there was no affidavit on file to confer jurisdiction to the district court. *See NRS 22.030(2); Pengilly*, 116 Nev. at 650, 5 P.3d at 571-72 (holding that a district court abuses its discretion when it exceeds its jurisdictional authority to issue a contempt order.). Further, as discussed above, this order imposes a criminal contempt penalty. Therefore, while the district court found that Yasol had willfully violated the preliminary injunction in August of 2016, Yasol had already been held in contempt for that violation, and the district court did not find that she willfully violated the preliminary injunction again at the time of this contempt hearing. Further, we note that the district court did not expressly find that Yasol *willfully* disobeyed its order to pay \$500 before the September 21 hearing, and only found that she

We acknowledge that in the second set of contempt proceedings initiated below, the Greenhills alleged and the district court found that Yasol repeatedly violated the terms of the preliminary injunction by placing her personal property on or refusing to remove her personal property from the easement. We recognize that such a violation constitutes “[d]isobedience or resistance to any lawful writ, order, rule or process issued by the court or judge at chambers” and is grounds for contempt. NRS 22.010(3). To that extent, the district court did not abuse its discretion in finding Yasol in contempt for violating the preliminary injunction.

Nonetheless, because the district court utilized one penalty for both findings of contempt, namely, the continued violation of the preliminary injunction and the pursuit of payment of the initial \$2,850 in sanctions and attorney fees, the separate findings of contempt in this case are not severable and must be vacated. *See* 17 Am. Jur. 2d Contempt § 132 (2014) (“If one penalty is affixed for more than one act of contempt, and the relator could not be held in contempt for one of the acts, the whole [contempt] judgment is tainted and void.”).

Accordingly, while we do not condone Yasol’s repeated violations of the district court’s preliminary injunction, we nevertheless vacate the orders entered on July 26, 2013, September 20, 2016, and October 17, 2016, for the reasons stated above.

---

was incapable of doing so. *See* NRS 199.340(4) (stating that “a person is in criminal contempt if he or she commits *willful* disobedience to the lawful process or mandate of a court” (emphasis added)); *City Council of City of Reno v. Reno Newspapers, Inc.*, 105 Nev. 886, 893-94, 784 P.2d 974, 979 (1989) (requiring a finding of willfulness in a criminal contempt proceeding).



*Whether the district court relied on inadmissible hearsay evidence when rendering its final judgment following the bench trial*

We now turn to Yasol's argument that the district court's findings of fact and conclusions of law and judgment were erroneous because "[a]lmost all of Greenhill's evidence at trial . . . was inadmissible hearsay evidence." Specifically, Yasol contends that Donna Greenhill's testimony consisted of hearsay statements offered to prove that Yasol was harassing the Greenhills' tenants, allegedly giving rise to the Greenhills' claims.

The Greenhills, on the other hand, contend that substantial evidence supports the district court's judgment, pointing to the stipulated exhibits admitted at trial and Donna Greenhill's testimony at trial based on her personal knowledge. The Greenhills further contend that, even if portions of Donna Greenhill's testimony were hearsay, the testimony is nonetheless admissible under NRS 51.075(1). Finally, the Greenhills argue that even if the district court erroneously relied on hearsay testimony, that error was harmless due to the large amount of other evidence presented during the bench trial.

Following a bench trial, this court reviews the district court's legal conclusions de novo, and will uphold its factual findings so long as they are not clearly erroneous and are supported by substantial evidence. *Vegas United Inv. Series 105, Inc. v. Celtic Bank Corp.*, 135 Nev. 456, 458-59, 453 P.3d 1229, 1231 (2019). Further, this court reviews a district court's determination regarding the admissibility of evidence for an abuse of discretion. *In re J.D.N.*, 128 Nev. 462, 468, 283 P.3d 842, 846 (2012).

During the bench trial, Donna Greenhill repeatedly testified that Yasol was harassing her tenants by using out-of-court statements made by those same tenants to prove her assertions. After a review of the trial testimony, we conclude that objected-to statements of Donna Greenhill

during the bench trial were inadmissible hearsay and are not subject to any exception or exemption under the hearsay rule.<sup>12</sup> See NRS 51.035. Nonetheless, this hearsay testimony is not immediately fatal to the Greenhills' claims, as we must now determine if these errors substantially affected Yasol's rights. See *Hallmark v. Eldridge*, 124 Nev. 492, 505, 189 P.3d 646, 654 (2008) (explaining that an error in the admission of evidence does not require reversal unless "the error substantially affected the rights of the appellant"); cf. NRC 61 (providing that the court must disregard all errors that do not affect a party's substantial rights and that, "[u]nless justice requires otherwise," the erroneous admission or exclusion of evidence is not grounds for granting a new trial or otherwise disturbing a judgment).

### *Trespass*

Generally, to support a claim for trespass, "a property right must be shown to have been invaded." *Lied v. Clark Cty.*, 94 Nev. 275, 279, 579 P.2d 171, 173-74 (1978). "Real property implicates a broad range of potential rights, including all rights inherent in ownership, including the right to possess, use, and enjoy the property, as well as security in and title

---

<sup>12</sup>The Greenhills' argument that the general exception to the hearsay rule applies is unpersuasive, as NRS 51.075 requires both that the statement have sufficient guaranties of trustworthiness and that its accuracy is "not likely to be enhanced by calling the declarant as a witness, even though the declarant is available." Cf. NRS 51.315 (residual hearsay exception for when the declarant is unavailable). Because the hearsay statements do not have sufficient guaranties of trustworthiness, nothing in the record otherwise supports the Greenhills' summary assertion that the hearsay statements are trustworthy, and calling the Greenhills' former tenants to testify was likely to enhance the testimony surrounding the Greenhills' trespass, nuisance and intentional interference with contractual relations claims, we conclude that NRS 51.075 is inapplicable in this instance.

to the property.” *Hamm v. Arrowcreek Homeowners’ Ass’n*, 124 Nev. 290, 298, 183 P.3d 895, 902 (2008) (internal quotation marks and footnote omitted). And an “easement holder may not avoid liability for trespass under the easement if the holder misuses, overburdens, or deviates from the easement.” 87 C.J.S. *Trespass* § 43 (2020).

Here, the parties stipulated to admit the deeds to both properties, the declaration of restrictions describing the terms of the easement, a survey showing the boundary lines and placement of the easement, and photographs showing the barrier Yasol placed on the property. These documents tend to support that the Greenhills owned property that reserved an easement for the benefit of Yasol’s property; that the easement is specifically for “sideyard purposes,” meaning landscaping and maintenance of the easement; and that the declaration of restrictions for Rosewood Estates, the development on which both properties are located, prohibits Yasol’s interference with the maintenance, inspection, or repairs to the Greenhills’ property. It is also evident from the non-hearsay testimony at trial that Yasol prevented Donna Greenhill and her tenants from accessing the side of the Greenhill home located within the easement.

Accordingly, substantial evidence in the record, separate from Donna Greenhill’s hearsay testimony at trial, supports the district court’s conclusion that Yasol both violated the terms of the easement and invaded the Greenhills’ right to access their property. Thus, we conclude that the erroneous admission of the hearsay testimony was harmless error, and we affirm the judgment of the district court as to the Greenhills’ trespass claim. *See Hallmark*, 124 Nev. at 505, 189 P.3d at 654; *cf.* NRCP 61.

*Nuisance*

NRS 40.140 defines nuisance as “[a]nything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.” NRS 40.140(1)(a). The interference with one’s use and enjoyment of land must be both substantial and unreasonable. *Lied*, 94 Nev. at 278, 579 P.2d at 173.

Here, the district court found that

[d]efendants’ harassment has included verbal harassment; keeping the front fence locked and thereby unreasonably denying plaintiffs access [to] the side of their property . . . [and] placing a line of potted plants along the easement in order to create a barrier designed to restrict plaintiffs’ access to and movement along the easement . . . .

While many of these findings are based on Donna Greenhill’s hearsay testimony, the finding that Yasol’s actions related to the barrier on the property amounted to an “obstruction to [the Greenhills’] free use of property,” see NRS 40.140(1)(a), was based on Donna Greenhill’s personal knowledge and was sufficient to support a claim of nuisance. Further, Donna Greenhill testified from personal knowledge that Yasol created an ongoing nuisance by keeping the fence along the property lines locked, blocking the Greenhills’ use and enjoyment of that side of their property. Additionally, the district court emphasized in its order that this interference was substantial, and included over seven years of “harassment,” including repeatedly placing and replacing the planter barrier, and preventing access to the side of the Greenhill home.

Thus, even though some of the district court’s findings relied on the erroneous admission of hearsay testimony, this error was harmless as the findings are otherwise supported by substantial evidence. Accordingly,



we affirm the judgment of the district court as to the nuisance claim. *Hallmark*, 124 Nev. at 505, 189 P.3d at 654; *cf.* NRCF 61.

*Intentional Interference with Contractual Relations*

“In an action for intentional interference with contractual relations, a plaintiff must establish: (1) a valid and existing contract; (2) the defendant’s knowledge of the contract; (3) intentional acts intended or designed to disrupt the contractual relationship; (4) actual disruption of the contract; and (5) resulting damage.” *J.J. Indus., LLC v. Bennett*, 119 Nev. 269, 274, 71 P.3d 1264, 1267 (2003). Thus, a plaintiff must prove that the defendant *intentionally* acted to disrupt the contractual relations, as “mere knowledge of the contract is insufficient to establish that the defendant intended or designed to disrupt the plaintiff’s contractual relationship; instead, the plaintiff must demonstrate that the defendant intended to induce the other party to breach the contract with the plaintiff.” *Id.* at 276, 71 P.3d at 1268.

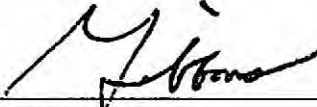
After a review of the record, we conclude that testimony and evidence produced at trial are insufficient to support the Greenhills’ intentional interference with contractual relations claim as the Greenhills failed to produce evidence that they incurred damages as a result of Yasol’s actions. Specifically, even though Donna Greenhill testified that she was forced to reduce rent to \$200 to encourage her tenants to remain in the property, no tenants testified and she failed to produce the lease or any other documentation to support this claim.



Thus, the district court’s finding that Yasol intentionally interfered with the Greenhills’ landlord-tenant contractual relationship is not supported by substantial evidence, and we reverse that portion of the district court’s judgment. *See id.* at 277, 71 P.3d at 1269 (reversing a district

court judgment because of plaintiffs' failure to prove all four elements of an intentional interference with contractual relations claim).

Based on the foregoing, we vacate the contempt orders entered on July 26, 2013, September 20, 2016, and October 17, 2016; reverse the district court's judgment as to the Greenhills' intentional interference with contractual relations claim; affirm the remainder of the district court's judgment as discussed herein; and remand for further proceedings consistent with this order.

It is so ORDERED.<sup>13</sup>

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

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

cc: Hon. Joseph Hardy, Jr., District Judge  
Kemp, Jones, LLP  
Law Office of Michael F. Bohn, Ltd.  
Legal Aid Center of Southern Nevada, Barbara Buckley,  
Executive Director  
Anne R. Traum, Coordinator, Appellate Litigation Section,  
Pro Bono Committee, State Bar of Nevada  
Kelly Dove  
Eighth District Court Clerk

---

<sup>13</sup>Insofar as the parties raise 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.