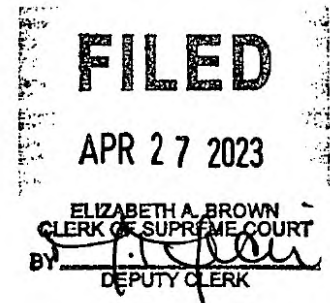


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL FOLEY,  
Appellant,  
vs.  
GEORGINA STUART, AN  
INDIVIDUAL; LOREA AROSTEGUI, AN  
INDIVIDUAL; JEFFERY PONT, AN  
INDIVIDUAL; ANITA FLORES-YANEZ,  
AN INDIVIDUAL; ALEXA  
RODRIGUEZ, AN INDIVIDUAL; LISA  
REESE, AN INDIVIDUAL; JAMES  
CHILDS, AN INDIVIDUAL;  
SHARONNA SHELTON, AN  
INDIVIDUAL; LAS VEGAS  
METROPOLITAN POLICE  
DEPARTMENT; AND CLARK COUNTY,  
Respondents.

No. 84069-COA



*ORDER OF AFFIRMANCE*

Michael Foley appeals from a district court order dismissing a complaint for failure to effect timely service and for want of prosecution in a civil rights matter. Eighth Judicial District Court, Clark County; Christy L. Craig, Judge.

Foley filed the underlying action against respondents pursuant to 42 U.S.C. § 1983 on October 7, 2020. On February 5, 2021, after the 120-day service period expired, Foley filed a motion for an extension of time to serve the complaint on respondents, but the motion failed to include a designation regarding whether a hearing was requested as required under EDCR 2.20(b). The Eighth Judicial District Court Clerk's Office thereafter

filed and electronically served a notice of nonconforming document informing Foley of his failure to include a hearing designation.<sup>1</sup> Nevertheless, Foley failed to correct the document or take any further action in the litigation until the district court conducted a sua sponte status check in chambers and set the matter for a show cause hearing. Following the hearing, the district court set Foley's motion on calendar for its own hearing, after which the court denied the motion in a written order. In the order, the court concluded Foley's motion for an extension of time was untimely, and it found there was no good cause for Foley's failure to timely file the motion, timely serve the complaint, or otherwise prosecute his case. On those grounds, the district court denied Foley's motion and dismissed his complaint under NRCP 4(e) and EDCR 2.90. This appeal followed.

We review a district court's denial of a motion for an extension of time to effect service—and its attendant dismissal of the underlying complaint—for an abuse of discretion. *Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 595, 245 P.3d 1198, 1200 (2010). Under NRCP 4(e)(4),

[i]f a plaintiff files a motion for an extension of time after the 120-day service period—or any extension thereof—expires, the court must first determine whether good cause exists for the plaintiff's failure to timely file the motion for an extension before the

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<sup>1</sup>In his informal appellate brief, Foley summarily claims that he never received this notice by mail. Even assuming service by mail was required, we need not address Foley's contention on this point in light of our disposition.

court considers whether good cause exists for granting an extension of the service period.

If the plaintiff fails to demonstrate good cause for the tardy extension motion, the district court must dismiss the complaint. *See Saavedra-Sandoval*, 126 Nev. at 597, 245 P.3d at 1201 (“Failure to demonstrate such good cause ends the district court’s inquiry.”); *see also* NRCP 4(e)(2) (providing that the district court must dismiss an action for failure to effect timely service).

On appeal, Foley argues that he established good cause for not serving the complaint within the 120-day period, alluding to the fact that he is unrepresented and alleging that he was having various technical issues with the clerk’s office concerning the issuance of summonses. But he does not dispute the district court’s conclusion that he failed to timely file his motion for an extension of time to effect service, nor does he argue that the district court abused its discretion in finding no showing of good cause for his failure to do so. Indeed, Foley fails to set forth any explanation whatsoever as to why he did not file his extension motion within the 120-day service period and instead waited until that period had expired. Because Foley’s failure to demonstrate good cause for not timely filing the motion for an extension warranted dismissal of the underlying action, *see* NRCP 4(e)(2); *Saavedra-Sandoval*, 126 Nev. at 597, 245 P.3d at 1201, and because Foley fails to challenge the district court’s ruling on that ground, affirmance is warranted on that ground alone. *See Hung v. Genting Berhad*, 138 Nev., Adv. Op. 50, 513 P.3d 1285, 1289 (Ct. App. 2022) (providing that

an appellant must challenge all of the independent alternative grounds relied upon by the district court to obtain reversal).

Accordingly, we

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

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

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

  
\_\_\_\_\_, J.  
Westbrook

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<sup>2</sup>Insofar as Foley raises 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.

cc: Hon. Christy L. Craig, District Judge  
Michael Foley  
Alexa Rodriguez  
Anita Flores-Yanez  
Georgina Stuart  
James Childs  
Jeffery Pont  
Clark County District Attorney/Civil Division  
Las Vegas Metropolitan Police Department  
Lisa Reese  
Lorea Arostegui  
Sharonna Shelton  
Eighth District Court Clerk