IN THE SUPREME COURT OF THE STATE OF NEVADA

WARREN HAVENS,
Appellant,
vs.
ARNOLD LEONG; AND CHERYL CHOY,
Respondents.

No. 84309

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order setting aside a default and dismissing a complaint in a civil action. Eighth Judicial District Court, Clark County; Elham Roohani, Judge.[1]

Appellant Warren Havens argues that respondent Arnold Leong fraudulently entered into three contracts with him without disclosing that he was married and thus subject to community property laws.[2] The agreements were entered into in 1998, 1999, and 2001. Having reviewed the briefs and the record, we conclude that the district court did not err in dismissing Havens' complaint as time-barred by the applicable limitations periods and that Havens has not otherwise shown that relief is warranted. We address Havens' individual claims in turn.

[1]Pursuant to NRAP 34(f)(3), we have determined that oral argument is not warranted in this appeal.

[2]Respondent Cheryl Choy is Leong's guardian ad litem. We refer to Leong or Choy individually when referring to their individual capacities and collectively as respondents otherwise.

Havens first argues that respondents lacked standing to assert defenses to his complaint. A civil defendant has standing to assert defenses to a pleading, including that a claim is barred by a statute of limitations. *See* NRCP 8(c)(1); NRCP 12(b); *see also Logan v. Abe*, 131 Nev. 260, 263, 350 P.3d 1139, 1141 (2015) (providing that this court reviews standing de novo). Havens' reliance on caselaw discussing mootness is misplaced, given that the claims in Havens' complaint presented live controversies respondents were entitled to oppose. *See Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) (addressing mootness). Havens therefore has not shown that relief is warranted in this regard.

Havens next argues that relief is warranted related to minute orders and new evidence arising after the district court dismissed the complaint with prejudice. It is not clear to what evidence Havens refers. *Cf. Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider claims where appellant "neglected his responsibility to cogently argue, and present relevant authority, in support of his appellate concerns"). Insofar as Havens alleges errors pertaining to minute orders, the entry of the district court's written order dismissing the complaint with prejudice superseded the court's previous minute order. *See Mortimer v. Pac. States Savs. & Loan Co.*, 62 Nev. 142, 153, 145 P.2d 733, 735-36 (1944) (recognizing that a court's formal written order supersedes a clerk's minute order); *cf. Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987) (providing that a minute order is "ineffective for any purpose and cannot be appealed"). Insofar as Havens argues that respondents failed to oppose his pleading below, the record belies that contention. Havens therefore has not shown that relief is warranted in this regard.

Havens next challenges the district court's conclusion that Choy lacked sufficient contacts with Nevada for personal jurisdiction when it simultaneously approved her status as guardian ad litem for Leong. Havens suggests these rulings were impermissibly inconsistent. Where a nonresident files an application for a guardianship ad litem in a given state as to a resident of that state, that filing is undertaken for the interests of the state resident, not those of the nonresident. *Jensen v. Jensen*, 242 Cal. Rptr. 3d 832, 835-36 (Ct. App. 2019). Thus, the guardianship application does not constitute an action by the nonresident to purposefully avail him or herself of the state forum so as to vest personal jurisdiction. *Id.* Choy's posture in this regard aligns with that of the guardianship applicant in *Jensen*, and accordingly, Havens has not shown that the district court's rulings conflicted with each other or were erroneous when taken together. Havens therefore has not shown that the district court abused its discretion on this basis. *See In re Guardianship of N.M.*, 131 Nev. 751, 758, 358 P.3d 216, 220 (2015) (reviewing a district court order appointing a guardian for an abuse of discretion).

Havens next argues that the district court should have imposed on Choy the conditions Nevada law requires of a guardian ad litem. Havens has not identified what Nevada law purportedly requires and thus has failed to support this contention with cogent argument or relevant authority. We therefore decline to consider it. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38; *see also* NRS 159.2027 (setting forth the effect of recognizing guardianship orders entered in other states).

Havens next argues that the district court erred in "retroactively applying" Choy's guardianship ad litem. Havens has not supported this argument with cogent argument or relevant authority. We

therefore decline to consider it. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38.

Havens next argues that the district court should have held a hearing and permitted discovery before dismissing the complaint. "District courts have wide discretion to control the conduct of proceedings pending before them." *State, Div. of Child & Family Servs. v. Eighth Judicial Dist. Court*, 120 Nev. 445, 453, 92 P.3d 1239, 1244 (2004). "The judge may consider [a] motion on its merits at anytime with or without oral argument, and grant or deny it." EDCR 2.23(c). In applying EDCR 2.23, the district court found that oral argument would not assist it. Havens has not argued that he was prevented from advancing any particular argument. *Cf. Lewis v. Casey*, 518 U.S. 343, 356 (1996) (explaining that a plaintiff's right to access the courts only entitles him to pursue nonfrivolous claims). The record shows that Havens filed numerous motions that the district court considered in its order, and thus he was not denied an opportunity to be heard. *Cf. Callie v. Bowling*, 123 Nev. 181, 183, 160 P.3d 878, 879 (2007) (recognizing that procedural due process requires notice and an opportunity to be heard). Havens therefore has not shown that relief is warranted in this regard.

Havens next argues that opposing counsel had a conflict of interest in representing both Choy and Leong where Choy acted as Leong's guardian ad litem. Havens lacks standing to assert a conflict of interest pertaining to opposing counsel given that Havens was not a former or current client. *See Liapis v. Second Judicial Dist. Court*, 128 Nev. 414, 420, 282 P.3d 733, 737 (2012) ("The general rule is that only a former or current client has standing to bring a motion to disqualify counsel on the basis of a conflict of interest." (internal quotation marks omitted)). Further, Havens

has not shown and the record does not suggest that Choy and Leong had adverse interests in this matter. *Cf.* RPC 1.7(1)(a) (providing that a conflict of interest exists where "[t]he representation of one client will be directly adverse to another client"). Havens therefore has not shown that relief is warranted in this regard.

Havens next argues that the district court should not have recognized Choy as Leong's guardian ad litem because Choy was not neutral to Havens in opposing his claims. A guardian ad litem must advocate for the best interests of the protected individual, not those of another party suing the protected individual. *See* NRS 159.0455(4) (setting forth the duties of a guardian ad litem). Contesting claims levied against Leong fell within the scope of these duties. Havens therefore has not shown that the district court abused its discretion in this regard.

Havens next argues that the district court should not have required him to post security of $500 where the court had previously found him to be indigent. NRS 18.130(1) permits a defendant to demand an out-of-state plaintiff to post security for the costs and charges the defendant may be awarded. Should a plaintiff fail to timely meet a security demand, the matter may be dismissed. NRS 18.130(4). However, "[a]n indigent plaintiff need not provide security under NRS 18.130." *Truck Ins. Exch. v. Tetzlaff*, 683 F. Supp. 223, 228 (D. Nev. 1988). Havens was granted indigent status in this matter, and respondents demanded that Havens post security in response to the complaint. The district court held a hearing on a different motion and ruled that the proceedings were stayed while an unmet security demand was pending, declining to reach any other issue and without specifically ruling that Havens had to post security. Havens asserts that he posted security of $500 on January 28, though the district court docket

reflects a transaction on that date of $450 for which the fee was waived. The matter subsequently proceeded to a merits disposition in which the district court did not enter a finding indicating whether security had been deposited. While the district court did not order Havens to post security, to the extent it implied that Havens had to do so, the district court was mistaken. *Cf. Gaffier v. St. Johns Hosp.*, 243 N.W.2d 20, 23-24 (Mich. Ct. App. 1976) (reversing district court ruling erroneously imposing a security bond against an indigent plaintiff). Nevertheless, Havens is not entitled to relief on this basis given that the matter was not dismissed for failure to post security, Havens was able to prosecute the action, and Havens' access to the court was not inhibited on the basis of his indigency.[3] *See* NRS 12.015; *Peck v. Zipf*, 133 Nev. 890, 897-98, 407 P.3d 775, 781-82 (2017) (recognizing that indigent parties have "a right of reasonable access to the courts, [although] the right of access is not unrestricted" and concluding that a particular requirement did not improperly restrict court access (internal quotation marks omitted)); *Jordan v. State ex rel. Dep't of Motor Vehicles & Pub. Safety*, 121 Nev. 44, 71-73, 110 P.3d 30, 49-50 (2005) (noting that an in forma pauperis order permitted a plaintiff to proceed without payment of fees and holding that it was an abuse of discretion to dismiss for failure to post security); *Rodriguez v. Eighth Judicial Dist. Court*, 120 Nev.

[3]In light of the contradictory information in the record, we cannot determine whether the district court clerk retains monies that Havens was not required to post. If the district court clerk retains security Havens posted, he may seek a refund, *cf.* NRCP 67, notwithstanding any fees and costs that respondents may seek as prevailing parties, *cf.* NRS 18.010; NRS 18.020. We express no opinion as to any party's entitlement to recovery in this regard.

798, 806, 102 P.3d 41, 46-47 (2004) (explaining that the civil indigency rule looks to a party's ability or "inability to prosecute or defend an action").

Havens next argues that respondents failed to timely respond to his complaint, warranting relief. The record belies this claim. Upon respondents' timely filing of a demand for security, the proceedings were stayed pending the unmet security demand, and respondents timely moved to dismiss during the pendency of the stay.[4] *See* NRS 18.130(1); *see also Prof'l Billing Res., Inc. v. Haddad*, 705 N.Y.S.2d 204, 210 (Civ. Ct. 2000) (holding that the time for a defendant to file an answer is extended by the stay provided for by New York's analogous security-for-costs statute). Havens therefore has not shown that relief is warranted in this regard.

Havens next argues that the district court erred in dismissing the complaint based on a California district court decision.[5] The record belies this claim. The district court dismissed the complaint after finding that each claim was barred by the applicable statute of limitations, among other reasons, and did not base its dismissal on any out-of-state decision. Insofar as Havens suggests that a California decision recognizing Choy as Leong's guardian ad litem is infirm, that contention does not bear on the

---

[4]We note that Havens improperly filed a default before the time to respond to the complaint had run. *See* NRCP 55(a) (providing that a default must be entered against a defendant who has not defended against the action); *cf. Conaway v. Lopez*, 880 S.W.2d 448, 449 (Tex. App. 1994) ("A default judgment rendered before the defendant's answer is due must be reversed.").

[5]Havens asserts that several of the ensuing claims incorporate by reference arguments raised elsewhere. This is improper, as the appellant's brief must contain the argument, NRAP 28(a)(10), and appellant may not incorporate briefs or memoranda filed below, NRAP 28(e)(2). Where such material is referenced in Havens' opening brief, we have not considered it.

district court's finding that Havens' claims were time-barred.[6] To the extent that Havens argues the district court erred in recognizing the California guardianship, he has not shown that the district court violated NRS 159.2025, which sets forth procedures for recognizing guardianship orders issued in another state. And Havens' related arguments as to judicial notice are misplaced, given that the district court acted to recognize a foreign guardianship not to take judicial notice of it. *Compare* NRS 159.2025, *with* NRS 47.130-.170 (providing for judicial notice). Havens therefore has not shown that relief is warranted in this regard.

Havens next argues that the district court ignored facts presented in the complaint, though he does not identify any particular facts purportedly ignored. Havens has failed to support this claim with cogent argument and relevant authority. We therefore decline to consider it. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38.

Havens next argues that the district court failed to apply substantive law to his fraud claims and that these claims are not subject to a statute of limitation. Where the relevant dates are undisputed, we review the application of statutes of limitation de novo. *Patush v. Las Vegas Bistro, LLC*, 135 Nev. 353, 354, 449 P.3d 467, 469 (2019). Dismissal is appropriate when the statute of limitations has run. *Id.*; *see Buzz Stew, LLC v. City of N. Las Vegas,* 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008) (providing that we rigorously review NRCP 12(b)(5) dismissals on appeal, taking all factual allegations in the complaint as true and drawing all inferences in the complainant's favor). An action based on fraud is generally subject to a three-year limitations period, based on the discovery of the facts giving rise

[6]We address Havens' statute-of-limitations argument below, as raised in the appellate brief.

to the claim. NRS 11.190(3)(d). Havens filed his complaint in 2021. Havens alleged that, in connection with agreements entered into in 1998, 1999, and 2001, Leong did not disclose that he was subject to community property laws and thus fraudulently concealed that he lacked the capacity to enter into those agreements. Without addressing the merits of Havens' underlying theory of fraud, the limitations period on any fraud claim arising from entry of these agreements has run. To the extent that we countenance Havens' contention that this purported fraud was concealed until Leong's 2005 divorce, any claim would nevertheless be time-barred. Insofar as Havens' claims may be characterized as sounding in written contract, oral agreement, statute, or common law tort, the respective six-, four-, three-, and two-year limitations periods have likewise run. *See* NRS 11.190. The district court did not err in dismissing the complaint as time-barred. Havens therefore has not shown that relief is warranted in this regard.

Havens next argues that the district court order neglected pertinent FCC law though he does not identify the relevant provisions or explain their salience. Because Havens has failed to support this claim with cogent argument and relevant authority, we decline to consider it. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38. Havens therefore has not shown that relief is warranted in this regard.

Lastly, Havens asserts a series of bare claims that are not supported with cogent argument or relevant authority. Havens argues that the tone of the district court's order was not impartial and that it contained unspecified material errors, arguing for remand before a different judge, but Havens has not identified any particular instances of purported partiality or material error to support this claim. Havens then argues that the district court issued the order without addressing his motions and pleadings, but

Havens again does not identify any specific matter not considered by the district court. And notably, the district court's order sets out a litany of Havens' filings that the district court considered. Havens also summarily asserts due process violations, that the district court improperly took judicial notice of unspecified purportedly nonfinal matters thus implicating unspecified public policy issues, that the case should have been assigned to business court, that FCC law preempted his suit, that the district court could not find his claims barred by the statutes of limitation if it also ruled that it lacked personal jurisdiction over a defendant, and that the district court order "accept[ed]" a California receivership case. Because none of these claims are supported by cogent arguments or relevant authority, we decline to consider them. *See id.*

Having concluded that relief is not warranted, we

ORDER the judgment of the district court AFFIRMED.[7]

Stiglich, C.J.

Lee, J.

Bell, J.

[7]We decline Havens' request to disqualify any justices who have participated in the disposition of any of his previous matters before this court. A previous unfavorable disposition standing alone is not a basis for disqualification. *See Canarelli v. Eighth Judicial Dist. Court*, 138 Nev., Adv. Op. 12, 506 P.3d 334, 337 (2022) ("[W]hat a judge learns during the course of performing judicial duties generally does not warrant disqualification unless the judge forms an opinion that displays a deep-seated favoritism or antagonism that would make fair judgment impossible." (internal quotation marks omitted)).

cc: Hon. Elham Roohani, District Judge
Warren Havens
Ben's Law
Beckstrom & Beckstrom, LLP
Eighth District Court Clerk