


IN THE SUPREME COURT OF THE STATE OF NEVADA

HAMED GHADIRI, AN INDIVIDUAL,  
Appellant,  
vs.  
BO JONES; AND DAN JONES,  
HUSBAND AND WIFE,  
Respondents.

No. 87319

FILED

AUG 14 2024

ELIZABETH A. DE...  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court post-judgment order denying a motion for relief under NRCP 60(b). Eighth Judicial District Court, Clark County; Crystal Eller, Judge.

Appellant Hamed Ghadiri discovered that a wall separating him from his neighbors, respondents Bo and Dan Jones, was incorrectly placed, resulting in a 591 square foot wedge of Ghadiri's property falling on the Joneses' side of the wall. When Ghadiri took steps to relocate the wall, the Joneses sued, seeking to determine the parties' rights. Ghadiri counterclaimed and sought damages. Ghadiri obtained summary judgment on the Joneses' claims against him, which we upheld in *Jones v. Ghadiri*, 140 Nev., Adv. Op. 27, 546 P.3d 831 (2024). While that appeal was pending, the Joneses made Ghadiri offers of judgment for \$300 and \$500 on Ghadiri's counterclaims, neither of which Ghadiri accepted.

After discovery closed, the Joneses moved for summary judgment on Ghadiri's remaining counterclaims for trespass and nuisance. Ghadiri's counsel had withdrawn, and Ghadiri failed to respond to the Joneses' motion. The district court granted the motion, noting Ghadiri's failure to oppose but also concluding on the merits that Ghadiri provided no evidence supporting the trespass and nuisance counterclaims or the alleged

damages. Notice of entry of that order was mailed to Ghadiri at his home address on August 31, 2022. The Joneses then moved for attorney fees and costs of \$51,449.25, which Ghadiri opposed through newly retained counsel. On January 5, 2023, the district court awarded fees pursuant to NRS 18.010 and NCRP 68. Ghadiri did not appeal either the summary judgment order or the order awarding attorney fees.

On May 8, 2023, Ghadiri moved for relief from both orders under NRCF 60(b)(1) for excusable neglect. Weighing the *Yochum v. Davis*, 98 Nev. 484, 653 P.2d 1215 (1982) factors, the district court concluded that Ghadiri had not filed the motion in bad faith or to delay proceedings. The district court found, however, that the motion was not filed within a reasonable time where Ghadiri had been represented by counsel during the proceedings on the motion for attorney fees, that motion was resolved on the merits, and Ghadiri failed to file an appeal. It also found that Ghadiri had knowledge of the procedural requirements, as shown by his communications with his attorneys. Ghadiri appeals.

NRCF 60(b)(1) allows the district court to grant relief from a final order due to mistake, inadvertence, surprise, or excusable neglect. It is a remedial rule that upholds the dignity of the court process while crediting the preference for adjudicating cases on the merits. *Willard v. Berry-Hinckley Indus.*, 136 Nev. 467, 469, 469 P.3d 176, 179 (2020). “An appeal from a Rule 60(b) decision does not bring the original judgment up for review, but only the decision on the request for relief from the judgment.”<sup>1</sup> *Fox v. Brewer*, 620 F.2d 177, 179-80 (8th Cir. 1980); *see also*

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<sup>1</sup>Consequently, we do not consider Ghadiri’s arguments regarding the propriety of summary judgment or the award of attorney fees. Nor does our

*Vargas v. J Morales Inc.*, 138 Nev. 384, 388, 510 P.3d 777, 781 (2022) (looking to federal law interpreting FRCP 60(b) when interpreting NRCP 60(b)).

In considering whether the movant has shown that relief is warranted under NRCP 60(b)(1), *Yochum* requires a court to weigh the following factors: “(1) a prompt application to remove the judgment; (2) the absence of an intent to delay the proceedings; (3) a lack of knowledge of procedural requirements; and (4) good faith.” *Yochum v. Davis*, 98 Nev. 484, 486, 653 P.2d 1215, 1216 (1982), *overruled on other grounds by Epstein v. Epstein*, 113 Nev. 1401, 1405, 950 P.2d 771, 773 (1997). It must also consider the underlying policy favoring resolving cases on the merits where possible. *Id.* at 487, 653 P.2d at 1217. The district court has “wide discretion” in determining a NRCP 60(b)(1) motion, but it may abuse that discretion if it disregards established legal principles. *Willard*, 136 Nev. at 469, 469 P.3d at 179. Where the district court issues findings on the first four *Yochum* factors, and substantial evidence in the record supports those findings, this court will affirm even where there is conflicting evidence in the record. *Id.* at 471, 469 P.3d at 180.

Ghadiri filed his motion more than six months after notice of entry of summary judgment was served, and he therefore could not properly seek NRCP 60(b) relief from that order. NRCP 60(c)(1) (stating that a motion under Rule 60(b) grounded on excusable neglect must be filed “no more than 6 months after . . . the date of service of written notice of entry of the judgment or order”); *Vargas*, 138 Nev. at 387-88, 510 P.3d at 780. As to the order awarding attorney fees, the record shows that the district court

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recent decision in *Jones v. Ghadiri*, 140 Nev., Adv. Op. 27, 546 P.3d 831 (2024), have any bearing on our resolution of this appeal.

