IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW TRAVIS HOUSTON,
Appellant,
vs.
DANIEL L. SCHWARTZ, ESQ., AN INDIVIDUAL,
Respondent.

No. 87670

FILED

AUG 14 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order denying a motion for NRCP 60(b) relief in a civil action. Eighth Judicial District Court, Clark County; Nadia Krall, Judge.

Appellant Matthew Travis Houston sued respondent Daniel Schwartz,[1] ostensibly based upon Schwartz's legal representation of Houston's employer and the adjuster for Houston's workers' compensation claim. The district court dismissed Houston's complaint with prejudice, concluding that Houston failed to state a claim against Schwartz because as an attorney representing an adverse party, Schwartz neither owed nor breached any duties to Houston.[2] Houston sought post-judgment relief, which the district court denied based upon Houston's failure to provide support for any grounds in NRCP 60(b).

Houston appeals from the district court's order denying NRCP 60(b) relief. Reviewing the NRCP 60(b) decision for abuse of discretion, *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 656, 428 P.3d 255, 257

[1]Houston sued others, but only Schwartz is a respondent in this appeal.

[2]Houston appealed that decision. The appeal is pending in Docket No. 87003-COA.

24-28762

(2018), *holding modified by Willard v. Berry-Hinckley Indus.*, 136 Nev. 467, 469 P.3d 176 (2020), we affirm.

Similar to his filings below, Houston's informal brief is largely incoherent, impeding meaningful appellate review. To be sure, Houston is pro se and was therefore entitled to file the informal brief form provided by the supreme court clerk under NRAP 28(k), which does not require pro se appellants to cite legal authority or the district court record. But the informal brief form still requires pro se appellants to "[e]xplain why [they] believe the district court was wrong" and "state what action [they] want the [appellate court] to take."

Houston fails to adhere to these basic instructions in his informal brief.[3] Instead, Houston presents muddled proclamations of various wrongs allegedly committed against Houston, most of which lack a discernable relationship to the present appeal. Houston also attaches pro se filings Houston filed in other cases, which also lack an identifiable connection to the present appeal.

Houston's pro se status does not absolve Houston of the responsibility to cogently explain to this court why he believes he is entitled to relief. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 319, 330 n.38, 130 P.3d 1280, 1282, 1288 n.38 (2006) (noting, in a case where the appellant was unrepresented, that this court need not consider the

[3]In fact, Houston appears to have eschewed the form entirely, instead filing a document entitled "Appellant's Informal Brief (as a supplimental (sic) Brandeis Brief), Opposition to and Supplimental (sic) Response to Order Affirming in Part and Dismissing in Part Filed July 27th, 2023, in No. 84886-COA and Motion for Extension of Time to File Docketing Statements 'Oral Arguments and De Novo Hearings Requested," along with an amalgamation of his prior filings in various courts, as his opening brief.

appellant's claims unsupported by cogent argument); *see Rodriguez*, 134 Nev. at 659, 428 P.3d at 259 (pro se litigants must still comply with basic procedural requirements). Nor does Houston's pro se status obligate this court to act as Houston's counsel. *Cf. Smithson v. Columbia Gas of PA/NiSource*, 264 A.3d 755, 761 (Pa. Super. Ct. 2021) ("Although this Court construes materials filed by a *pro se* litigant liberally, we cannot act as Appellant's counsel. Any layperson who chooses to represent himself assumes the risk that his lack of legal training will be his undoing." (internal citations omitted)); *see generally MoBay Props., LLC. v. White*, 540 S.W.3d 876, 879-80 (Mo. Ct. App. 2018) ("To address the merits of the appeal, this court would have to act as [appellant's] advocate by searching the record for relevant facts of the case, deciphering his point on appeal, crafting a legal argument, and locating authority to support it. This we cannot do.").

Even upon attempting to substantively consider Houston's arguments, Houston fails to demonstrate reversible error. Houston's generalized arguments regarding the adequacy of his pleadings appear to relate to pleadings from other actions, and regardless, do not cogently demonstrate any error by the district court in denying NRCP 60(b) relief. Houston also argues that the Eighth Judicial District Court, this court, and other courts and judges were biased against Houston. Houston's unsubstantiated assertions lack support in the record and are inadequate to demonstrate any bias by the district court judge in the underlying case. *See generally Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 501 P.3d 980 (2022) ("A judge is presumed to be unbiased, and the burden is on the party asserting the challenge to establish sufficient factual grounds warranting

disqualification." (internal quotation marks omitted)); *see also In re Petition to Recall Dunleavy*, 104 Nev. 784, 789-90, 769 P.2d 1271, 1275 (1988) (noting that rulings made during official judicial proceedings generally "do not establish legally cognizable grounds for disqualification," and that "an allegation of bias in favor or against an attorney for a litigant generally states an insufficient ground for disqualification"); *Twist v. U.S. Dep't of Just.*, 344 F. Supp. 2d 137, 142 (D.D.C. 2004) (rejecting plaintiff's bias arguments because, *inter alia*, "the plaintiff alleges a generalized bias of an entire judicial system rather than a personal bias of this member of the court"), *aff'd sub nom. Twist v. Gonzales*, 171 F. App'x 855 (D.C. Cir. 2005). The remainder of Houston's brief is comprised of unsupportable, irreverent, or facially irrelevant assertions and filings, none of which present any basis for reversal.

While we endeavor to decide appeals on the merits, the fundamental and pervasive deficiencies in Houston's brief hinder meaningful appellate review under even the most forgiving reading of Houston's brief. As Houston has presented no perceivable error by the district court, and the record does not demonstrate any error, we affirm. *See Schwartz v. Est. of Greenspun*, 110 Nev. 1042, 1051, 881 P.2d 638, 644 (1994) ("We will not reverse an order or judgment unless error is affirmatively shown.").

We deny Schwartz's request for NRAP 38 sanctions, but we caution Houston that frivolous appeals or misuse of the appellate process in other pending or future appeals may result in sanctions, regardless of Houston's pro se status. *See, e.g., Anderson v. Wells Fargo Bank, N.A.*, 953 F.3d 311, 315 (5th Cir. 2020) ("That [appellant's] filings are *pro se* offers [the appellant] no impenetrable shield, for one acting *pro se* has no license

to harass others, clog the judicial machinery with meritless litigation, and abuse already overloaded court dockets." (internal quotation marks omitted)). To that end, we note that Houston has filed more than 60 appeals before this court within the past two years, many of which are presently pending. We also note that the United States District Court for the District of Nevada recently declared Houston to be a vexatious litigant for similar conduct, including Houston's repeated filing of a complaint similar to Houston's complaint in this lawsuit, and barred Houston from commencing new actions without first obtaining permission from the Chief Judge of the court. *See Houston v. Encore Event Techs.*, No. 2:22-CV-01740-JAD-EJY, 2023 WL 7042573, at *3 (D. Nev. Oct. 24, 2023), *appeal dismissed,* No. 24-240, 2024 WL 3408628 (9th Cir. Mar. 22, 2024).

Having determined that no relief is warranted, we

ORDER the judgment of the district court AFFIRMED.

Stiglich, J.
Stiglich

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

cc: Hon. Nadia Krall, District Judge
Matthew Travis Houston
Hooks Meng & Clement
Eighth District Court Clerk