

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILBERT ROY HOLMES,
Appellant,
vs.
CAPUCINE YOLANDA HOLMES,
Respondent.

No. 87235-COA

FILED

AUG 30 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Wilbert Roy Holmes appeals from a post-divorce decree order granting a motion for relief pursuant to NRCP 70(a) and EDCR 7.51. Eighth Judicial District Court, Family Division, Clark County; Heidi Almase, Judge.

In the proceedings below, Wilbert and respondent Capucine Yolanda Holmes were divorced by way of a decree of divorce entered in June 2017. In the decree, the district court determined that Capucine was entitled to an amount equal to one-half the increase in the equity in the parties' marital residence between 2001 and 2017, directed Wilbert to pay her said amount within 60 days of the decree's entry, and authorized Capucine to force the sale of the marital residence if Wilbert failed to comply. Wilbert appealed and this court reversed the matter in part, concluding that the district court failed to make sufficient findings regarding the equity in the parties' marital residence that was to be divided. *Holmes v. Holmes*, No. 73291-COA, 2018 WL 2130846 (Nev. Ct. App. Apr. 30, 2018) (Order Affirming in Part, Reversing in Part and Remanding).

Following the remand in Docket No. 73291-COA, the district court entered an order clarifying the amount of equity in the home that was to be divided pursuant to the decree of divorce. Wilbert appealed and this court affirmed. *See Holmes v. Holmes*, No. 76206-COA, 2019 WL 1932067 (Nev. Ct. App. Apr. 26, 2019) (Order of Affirmance).

Wilbert did not subsequently tender the required funds to Capucine, and additional litigation ensued between the parties—particularly concerning the sale of the marital residence—and the district court eventually entered an order that granted Capucine sole authority to sell the marital residence and authorized her to execute necessary documents to effectuate the sale. After Capucine entered into a contract for the sale of the marital residence in May 2023, she filed an ex parte motion in which she primarily sought an order directing the district court clerk to execute a grant, bargain, and sale deed transferring the marital residence to a limited liability company she owned to facilitate the sale of the property to the prospective buyer. In her motion, Capucine asserted that Wilbert was obstructing the sale and that, due to concerns raised by escrow and title companies, it could not proceed absent the requested order, which she argued was authorized pursuant to NRCP 70 (providing that, if a party fails to comply with a judgment requiring performance of a specific act, “the court may order the act to be done—at the disobedient party’s expense—by another person appointed by the court”) and EDCR 7.51 (setting forth the procedure for obtaining a court order directing the district court clerk to execute a conveyance of land on behalf of an uncooperative party pursuant to NRCP 70, and providing that the district court may enter such an order


ex parte). The district court granted Capucine's motion, finding that Wilbert was a disobedient party within the meaning of NRCP 70(a) and an uncooperative party within the meaning of EDCR 7.51, and that Capucine's requested relief was an appropriate means of implementing the divorce decree. This appeal followed.

On appeal, Wilbert challenges the district court's order granting Capucine's motion for relief pursuant to NRCP 70(a) and EDCR 7.51, but in so doing, he fails to offer any argument addressing the bases for the district court's order. Thus, he has waived any such arguments, and we necessarily affirm the district court's order. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that arguments not raised on appeal are deemed waived).

To the extent that Wilbert contends the district court's order should be reversed because the court was biased against him, he has likewise failed to offer any cogent argument supporting his position. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (holding that the appellate courts need not consider claims that are not cogently argued). But regardless, nothing in the record before this court demonstrates that the district court's decisions in the underlying case were based on knowledge acquired outside of the proceedings or that its decisions otherwise reflect "a deep-seated favoritism or antagonism that would make fair judgment impossible," *Canarelli v. Eighth Jud. Dist. Ct.*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (internal quotation marks omitted) (discussing when disqualification is warranted due to alleged bias), and we discern no abuse of discretion in the district court's decision to grant

Capucine's motion for relief pursuant to NRCP 70(a) and EDCR 7.51, *see Randon v. Nev. Real Est. Comm'n*, 79 Nev. 132, 139, 379 P.2d 537, 540 (1963) (reviewing an order resolving an NRCP 70 motion for an abuse of discretion). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Heidi Almase, District Judge, Family Division
Wilbert Roy Holmes
Heaton Fontano, Ltd.
Eighth District Court Clerk