

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WENDY SERENIDY WONG,  
Appellant,  
vs.  
SEDGWICK CMS,  
Respondent.

No. 88358-COA

**FILED**

DEC 30 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Wendy Serenidy Wong appeals from a final order in a civil matter. Eighth Judicial District Court, Clark County; Erika D. Ballou, Judge.

Following a motor vehicle accident involving its insured, respondent Sedgwick CMS (SCMS) commenced the underlying negligence action against a person who was identified in the related police report as Wan Wing Wong. SCMS encountered difficulties effecting personal service, and as a result, it eventually served the defendant by publication. When the defendant subsequently failed to file an answer or otherwise appear in the underlying proceeding, SCMS obtained a clerk's entry of default and default judgment against her. SCMS thereafter endeavored to enforce its judgment, serving various writs of execution and garnishment on the defendant's employers and banking institution. In these efforts, SCMS was somewhat successful, as it collected some funds by way of the writs, and was contacted by a law firm, which made several monthly payments on the judgment on the defendant's behalf.

More than five years after entry of the judgment, Wong filed a motion to set aside the default judgment. In her motion, Wong identified

herself as Wendy Serenidy Wong and asserted that the default judgment was improperly entered and/or being enforced against her because she had not been served with the complaint. Wong also filed a motion to dismiss, in which she asserted that she was not the person identified in the summons or complaint. SCMS opposed Wong's motions and the district court held a hearing concerning them.

At the hearing, Wong contended that she was not the person identified in the complaint and that she believed she had been the victim of identity theft. SCMS's counsel, in turn, expressed confusion over Wong's allegation that she was not the defendant in this case, but indicated that he did not want to impugn Wong's integrity and acknowledged that an evidentiary hearing may be needed to determine her identity, although he also requested that the default judgment be left in place until the identity issue was resolved. The district court then entered a written order that summarily granted the motion to set aside, directed Wong to file an answer, and indicated that the matter would proceed to an evidentiary hearing to determine her identity.

SCMS subsequently appealed from that order. However, this court dismissed the appeal for lack of jurisdiction. *Sedgwick CMS v. Wong*, No. 84390-COA, 2023 WL 2861163 (Nev. Ct. App. Apr. 7, 2023) (Order Dismissing Appeal). This court noted that the challenged order purported to set aside the default judgment against Wong but only did so until the identity issue could be resolved at an evidentiary hearing. *See id.* at \*1. Because the challenged order contemplated further proceedings following an evidentiary hearing, including a potential modification of the order, it could not be considered a final order resolving the motion to set aside the default judgment. *See id.* As "no statute or court rule allow[ed] for an

appeal from a non-final order that expressly remains subject to modification” SCMS’s appeal was dismissed for lack of jurisdiction. *See id.*

The district court subsequently set this matter for an evidentiary hearing concerning the issue of Wong’s identity. At the evidentiary hearing, Wong testified that she was not the Wan Wing Wong that was involved in the traffic accident and that her real name was Wendy Serenidy Wong. Wong also provided documentation in support of her assertion that she was not Wan Wing Wong. In addition, Wong’s husband testified that she was not involved in the traffic accident. However, further questioning by SCMS revealed that Wong had utilized Wan Wing Wong’s information on various documents and that a bank account opened under the name of Wan W. Wong was later then changed to the name of Wendy Serenidy Wong. In addition, the documentation Wong provided in support of her identity argument contained inconsistencies and inaccuracies. The district court also took into account information from criminal charges that stemmed from the accident. After consideration of the evidence presented at the evidentiary hearing, the district court concluded that both Wong and her husband lacked credibility and that Wong failed to demonstrate she was the victim of mistaken or stolen identity.

The district court later entered a written order in which it rejected Wong’s request for relief. The court explained that it had considered the testimony and exhibits presented at the evidentiary hearing and found that Wan Wing Wong and Wendy Serenidy Wong were the same person. In addition, the court reiterated that it found Wong and her husband lacked credibility. The court also found that Wong was the person involved in the traffic accident and that the complaint had been appropriately served. Moreover, the court concluded that Wong’s challenge

to the judgment was not timely. Accordingly, the district court concluded that Wong was not entitled to relief and reinstated the default judgment. This appeal followed.

First, Wong challenges the district court's rejection of her assertion that she was the victim of identity theft. A district court order resolving a motion to set aside a default judgment is reviewed for an abuse of discretion. *Price v. Dunn*, 106 Nev. 100, 103, 787 P.2d 785, 787 (1990), *overruled in part on other grounds by NC-DSH, Inc. v. Garner*, 125 Nev. 647, 651 n.3, 218 P.3d 853, 857 n.3 (2009). "An abuse of discretion occurs if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason." *Skender v. Brunsonbuilt Constr. & Dev. Co.*, 122 Nev. 1430, 1435, 148 P.3d 710, 714 (2006). Moreover, "[r]ulings supported by substantial evidence will not be disturbed on appeal" and "[s]ubstantial evidence is that which a sensible person may accept as adequate to sustain a judgment." *Williams v. Williams*, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004).

As explained previously, Wong and her husband testified in support of her assertion that she was the victim of identity theft and Wong submitted various documents in support of her contentions. However, Wong's documents contained inconsistencies and the evidence established that Wong had utilized the name and information of Wan Wing Wong in the past.

The district court's factual findings made in support of its denial of Wong's contentions are supported by the evidence presented at the evidentiary hearing, and thus, were supported by substantial evidence in the record. *See id.* While Wong challenges the court's findings and contends that she sufficiently supported her assertion of identity theft, this court will

not second guess a district court's resolution of factual issues involving conflicting evidence or reconsider its credibility findings. *See Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009). Moreover, Wong does not demonstrate that the district court's determination that she waited too long to challenge the judgment, *see* NRCP 60(c)(1) (stating "[a] motion under Rule 60(b) must be made within a reasonable time"), or that the complaint was properly served, *see* NRCP 4.4(c) (addressing service by publication in civil actions), were arbitrary or capricious or exceeded the bounds of law or reason. In consideration of the foregoing, Wong fails to demonstrate that the district court erred by rejecting her identity-theft contention and reinstating the default judgment. *See Price*, 106 Nev. at 103, 787 P.2d at 787.

Second Wong argues that the district court was biased against her and predetermined its decision before consideration of the evidence. We conclude that relief is unwarranted on this point because Wong has not demonstrated that the court's decisions in the underlying case were based on knowledge acquired outside of the proceedings and its decisions did not 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) (explaining that unless an alleged bias has its origins in an extrajudicial source, disqualification is unwarranted absent a showing that the judge formed an opinion based on facts introduced during official judicial proceedings and which reflects deep-seated favoritism or antagonism that would render fair judgment impossible); *see In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) (providing that rulings made during official judicial proceedings generally "do not establish

legally cognizable grounds for disqualification”); *see also Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009) (stating that the burden is on the party asserting bias to establish sufficient factual grounds for disqualification), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 6, 501 P.3d 980, 984 (2022).

Moreover, the record demonstrates that the district court listened to the testimony and considered the evidence presented at the evidentiary hearing in the course of making its decision. Accordingly, the record does not show that the court had closed its “mind to the presentation of all the evidence.” *Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998). Therefore, we conclude that Wong is not entitled to relief based on this argument. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

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

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

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

---

<sup>1</sup>Insofar as Wong raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. Erika D. Ballou, District Judge  
Wendy Serenidy Wong  
Qualey Law Group  
Eighth District Court Clerk