

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANA L. CARLSON,
Appellant,
vs.
NEVADA TRUST COMPANY, AS
TRUSTEE OF THE GDC INVESTMENT
TRUST, DATED DECEMBER 23, 2011
and ALLIANCE TRUST COMPANY, AS
TRUSTEE OF THE RCAS
ENTERPRISES TRUST, DATED
DECEMBER 3, 2012,
Respondents.

No. 87968

FILED

FEB 03 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a motion for relief under NRCP 60(b) in an action concerning the administration of trusts. Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.

Appellant Dana Carlson is a grantor to two Nevada trusts. In 2022, respondents Nevada Trust Company and Alliance Trust Company, as trustees, filed petitions with the district court concerning the respective trusts. Dana was served by regular USPS mail for all matters relating to the petitions: The district court held a hearing, consolidated the matters, and entered an order granting each petition. Dana did not attend the hearing. Nearly six months after the district court entered its order, Dana filed an NRCP 60(b) motion. The district court denied the motion as untimely, and Dana appeals.

Dana first argues that the district court abused its discretion in denying the motion to set aside. We disagree.

This court reviews a district court's decision to deny a motion to set aside a judgment under NRCP 60(b) for an abuse of discretion. *Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996). A party requesting relief under NRCP 60(b) has the burden of showing "mistake, inadvertence, surprise, or excusable neglect, either singly or in combination . . . by a preponderance of the evidence." *Britz v. Consol. Casinos Corp.*, 87 Nev. 441, 446, 488 P.2d 911, 915 (1971) (internal quotation marks omitted).

NRCP 60(b) relief must be sought within a "reasonable time" and when relief is sought under NRCP 60(b)(1), (2), or (3), within six months after service of written notice of the judgment's entry. See NRCP 60(c)(1). An NRCP 60(b)(1), (2), or (3) motion filed within the six-month timeframe may nonetheless be deemed untimely if a court determines that the motion was not filed within a reasonable time. *Union Petrochemical Corp. of Nev. v. Scott*, 96 Nev. 337, 339, 609 P.2d 323, 324 (1980).

The district court entered the order granting respondents' petitions on December 22, 2022. Dana filed an NRCP 60(b) motion on June 20, 2023—nearly six months later. The district court concluded that although the motion was within six months, the motion was not filed within a reasonable amount of time. Specifically, the district court found that Dana knew of the trust proceedings long before she filed the motion. In reaching this conclusion, the court relied upon Dana's declaration in which she admitted that she received the petitions months earlier but did not understand what they were or know what to do them. The court also noted that Dana's counsel had corresponded with one of the respondents, whose

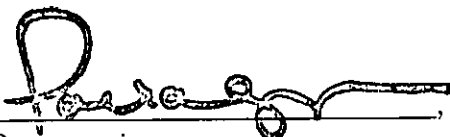
contact information could have only been obtained from the initial petitions, several months before the NRCP 60(b) motion was filed. Based on the foregoing, we conclude that the district court was within its discretion to deny Dana's NRCP 60(b) motion.

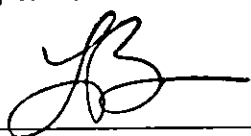
Dana next argues that she was not properly served pursuant to NRS 164.033 or NRS 164.037. As trustees, respondents brought their petitions pursuant to NRS 164.033, not NRS 164.037, and we need not address the service requirement pursuant to the latter argument. NRS 164.033 requires a petitioner to notify all "interested persons" in the manner provided in NRS 155.010, which requires service at least ten days before the scheduled hearing date by certified, registered, or ordinary first-class mail. NRS 155.010(1)(a); NRS 164.033(4)(a). An "interested person" is defined as a settlor, trustee, beneficiary, or "any other person to whom the court directs that notice be given." NRS 164.037. If a person claims an interest in the property or rights that would be affected by the petition, however, NRS 164.033 requires notice by citation at least thirty days before the hearing pursuant to NRS 155.040.


First, Dana did not adequately argue that she claimed an interest in the property or that her rights were affected by the petition to warrant notice by citation. As a grantor to both trusts, Dana was an "interested person" and was required to be served by mail at least ten days prior to the hearing. Dana was served by ordinary first-class mail with Nevada Trust Company's petition on August 31, 2022, and was served by ordinary first-class mail with Alliance Trust Company's petition on September 23, 2022. The hearing occurred on November 17, 2022, and

service thus complied with the statutory requirements. Therefore, we conclude that Dana has not shown that relief was warranted in this regard. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Parraguirre


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Gloria Sturman, District Judge
Ara H. Shirinian, Settlement Judge
Law Offices of Anthony D. Guenther, Esq.
Solomon Dwiggin, Freer & Steadman, Ltd.
Leavitt & Leavitt, PLLC
Eighth District Court Clerk