

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VEM MILLER,
Appellant,
vs.
SPENCER GEAR; TRAVIS EBARB;
AND STUDIO 17 CONSULTING,
Respondents.

No. 88353-COA

FILED

FEB 19 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

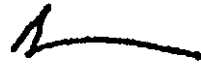
Vem Miller appeals from a district court order dismissing his complaint under NRCP 12(b)(5). Eighth Judicial District Court, Clark County; Jennifer L. Schwartz, Judge.

In the underlying matter, Miller filed a civil action against respondents Spencer Gear, Travis Ebarb, and Studio 17 Consulting alleging fraud and embezzlement from his social media brand. Subsequently, respondents moved to dismiss Miller's complaint under NRCP 12(b)(5). In his response to their motion, Miller stated that he sought to have Gear "removed from the case." Following a hearing on the motion, the district court entered a written order wherein it granted respondents' motion to dismiss. The court's order dismissed Ebarb and Studio 17 Consulting without prejudice, but with regard to Gear the order stated that "pursuant to [Miller's] concession, [Gear] is dismissed from this case with prejudice." Miller now appeals.

On appeal, Miller challenges only the court's decision to dismiss the case as to Gear with prejudice. More specifically, Miller states that he did not intend to dismiss Gear with prejudice and that he believes that he may have misheard the district court asking him if he was okay dismissing

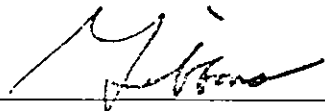
Gear with prejudice—as opposed to without prejudice—and responded accordingly. However, this court cannot fully review Miller’s argument regarding what took place at the hearing, as he failed to provide this court with the transcript from the hearing. Thus, he has not provided an adequate record of the proceedings before the district court for this court’s review.¹ We therefore presume that the missing transcript supports the district court’s written order. *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (observing that “[w]hen an appellant fails to include necessary documentation in the record, we necessarily presume that the missing portion supports the district court’s decision”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.



Bulla

, C.J.



Gibbons

, J.



Westbrook

, J.

¹On May 6, 2024, and again in a procedural order filed on June 13, 2024, the supreme court provided notice to Miller that it was his responsibility to ensure that any requested transcripts were filed with the supreme court. NRAP 9(b)(1)(c). Despite these notices, however, Miller failed to file a copy of the hearing transcript he requested with the supreme court.

As the supreme court entered an Order Amending the Nevada Rules of Appellate Procedure on June 7, 2024, which became effective on August 15, 2024, we cite the prior versions of the NRAP herein. *See In re Creation of a Commission on the Nevada Rules of Appellate Procedure*, ADKT (Order Amending the Nevada Rules of Appellate Procedure, June 7, 2024).

cc: Hon. Jennifer L. Schwartz, District Judge
Vem Miller
Spencer Gear
Studio 17 Consulting
Travis Ebarb
Eighth District Court Clerk