

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MELISSA POWELL, AS SPECIAL
ADMINISTRATOR OF THE ESTATE
OF JASON PHILIP POWELL,
DECEASED,
Appellant,
vs.
TICO CONSTRUCTION COMPANY,
INC., A NEVADA CORPORATION,
Respondent.

No. 87899-COA

FILED

JUN 25 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Melissa Powell, acting as the special administrator of the Estate of Jason Philip Powell, appeals from post-judgment orders awarding costs and attorney fees. Second Judicial District Court, Washoe County; Lynne K. Jones, Chief Judge.

In 2008, respondent Tico Construction Company sued Jason Philip Powell and Genseven Construction Company because Powell, a Tico employee, redirected one of Tico's construction contracts to Genseven, which then hired him as a partner.¹ During litigation, a default judgment was entered as a discovery sanction against Genseven. Powell was not involved in that litigation as he previously successfully moved to compel arbitration; however, he failed to attend the arbitration hearing. Consequently, Tico received separate judgments against Genseven and Powell in the amount of

¹Powell passed away on February 28, 2024, and the district court granted a motion to substitute Melissa Powell, the special administrator to his estate, as the new party. However, we will refer to the Jason and Melissa Powell collectively as "Powell" for ease of reference in this order unless noted otherwise.

\$215,149.86 each—the price of the lost construction contract. Genseven independently reached a settlement with Tico to satisfy the judgment against it, but Powell litigated for more than a decade over the validity and enforcement of the judgment against him.

Eventually, Tico discovered that Powell owned a condominium in Incline Village and filed a writ of execution to conduct a sheriff's sale on the property, which was scheduled for September 7, 2022. However, the day before the sale, Melissa Powell paid \$372,074.25² to the Washoe County Sheriff's Office. That same day, but after the sheriff received the funds, Tico filed a motion seeking attorney fees for its post-judgment collection efforts based on multiple legal theories. Tico also sought an award of costs pursuant to NRS 18.160, as it contended it was entitled to costs incurred for its post-judgment collection efforts.

The district court initially denied Tico's request for attorney fees because Tico did not file an affidavit per NRCP 54(d)(2)(B)(v)(a) to verify its billing statements, but the court granted Tico's request for costs in the amount of \$6,283.31. Later, the district court denied a motion for an order directing the clerk to enter a satisfaction of judgment because it was filed by Melissa Powell, who was not at that time a party to the proceedings.³ Tico subsequently filed a motion for reconsideration of the court's decision to reject its request for attorney fees, and the district court

²This payment was meant to cover the current judgment and interest amounting to \$368,589.12. That amount is based upon the addition of costs and post-judgment interest that were incorporated into the judgment at that point.

³As noted above, Melissa Powell subsequently was substituted as a party as special administrator of Powell's estate. However, the motion was not refiled.

granted the motion for reconsideration, finding that Tico satisfied the affidavit requirement under NRCp 54(d)(2)(B)(v)(a) when it filed the affidavit in a subsequent motion for attorney fees and costs. The court then awarded Tico \$242,997.54 in attorney fees. This appeal followed.

The district court did not err in awarding costs under NRS 18.160

Powell argues that an award of costs under NRS 18.160 is improper if a judgment has been satisfied, *see* NRS 18.160(2), and that the judgment in this case was satisfied when Melissa Powell paid the \$372,074.25 to the sheriff's office. Specifically, he argues that when NRS 17.130 and NRS 21.025 are read together, the statutes indicate that a judgment is satisfied when the sheriff receives funds to pay a judgment because that is when interest stops accruing. Further, Powell argues that the sheriff receiving the funds is the same as a court receiving the funds because each are arms of the state. Tico responds that a judgment is not satisfied until the creditor, its attorney, or the court actually receives the funds because the purpose of a judgment is to make the creditor whole, which only occurs when it receives the judgment funds.

This court reviews statutory construction and questions of law *de novo*. *Gonor v. Dale*, 134 Nev. 898, 899, 432 P.3d 723, 724 (2018). "If a statute is clear on its face, we will not look beyond its plain language." *Zohar v. Zbiegien*, 130 Nev. 733, 737, 334 P.3d 402, 405 (2014). Statutes should not be read to produce absurd or unreasonable results, and this court will interpret a rule or statute in harmony with other rules or statutes. *Pub. Emps.' Ret. Sys. of Nev. v. Gitter*, 133 Nev. 126, 131, 393 P.3d 673, 679 (2017).

Further, this court reviews awards of costs for an abuse of discretion. *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481, 493,

117 P.3d 219, 227 (2005). A district court abuses its discretion when its findings are not supported by substantial evidence. *Miller v. Miller*, 134 Nev. 120, 125, 412 P.3d 1081, 1085 (2018). Substantial evidence “is evidence that a reasonable person may accept as adequate to sustain a judgment.” *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007).

NRS 18.160(2) allows a party to collect costs until the judgment is “fully satisfied,” and NRS 17.200 details how a judgment becomes satisfied. A “[s]atisfaction of a judgment may be entered in the clerk’s docket if an execution is returned satisfied.” NRS 17.200. An execution of writ by a sheriff is satisfied when the sheriff “pay[s] to the plaintiff or the plaintiff’s attorneys so much of the proceeds as will satisfy the judgment, or depositing the amount with the clerk of the court.” NRS 21.110. And “[w]henever a judgment is satisfied *in fact* the party or attorney shall give such an acknowledgment, and the party who has satisfied the judgment may move the court to compel it or to order the clerk to enter the satisfaction in the docket of judgment.” NRS 17.200 (emphasis added). Thus, for a judgment to be fully satisfied, the amount needs to be satisfied in fact by receipt of payment by the court or the judgment creditor, and then an order of satisfaction of judgment may be filed in the court’s docket to document receipt. The sheriff’s receipt of the funds is insufficient to satisfy the judgment under NRS 18.160(2).

Additionally, the supreme court did not accept an argument similar to Powell’s that the filing of a satisfaction of judgment is merely an acknowledgment that the judgment was entered. See *Barney v. Mt. Rose Heating & Air Conditioning*, 124 Nev. 821, 831, 192 P.3d 730, 737 (2008). The court in *Barney* held that the judgment was not fully satisfied because post-judgment costs and attorney fees incurred to enforce the judgment can

be awarded and they were not yet determined by the court or satisfied by the debtor. *Id.* at 823, 192 P.3d at 732. Specifically, even after the debtor, Barney, had tendered to the creditor the entire judgment amount owed, and apparently, even supplemental costs and attorney fees, and filed to compel the clerk to enter a satisfaction of the judgment, the supreme court—analyzing NRS 17.200—upheld the denial of the motion to compel full satisfaction because there was a pending motion for attorney fees. *Id.* at 831, 192 P.3d at 737. Thus, the court also implicitly disagreed with Barney's assertion that a satisfaction of judgment is a mere acknowledgment that the judgment entered has been satisfied. *See id.*

Here, Powell chose to wait until the day before the sheriff's sale to provide the funds to the sheriff's office instead of tendering the funds to Tico, like in *Barney*, or to the clerk of the court. Tico did not receive the funds and immediately filed its motion for supplemental costs and attorney fees. The sheriff's office deposited \$370,170.90⁴ with the clerk of the court on September 26, 2022, twenty days after receipt by the sheriff and twenty days after Tico filed its NRS 18.160 motion for costs (and for attorney fees). Thus, Tico filed its motion before the sheriff returned the writ of execution to the court, which is necessary before a judgment can be fully satisfied and entered on the court docket. *See* NRS 17.200; NRS 21.110. Therefore, as a matter of fact, the judgment was not fully satisfied, and the district court did not err as a matter of law when it awarded Tico costs under NRS 18.160.⁵

⁴The \$2094.10 difference from the original \$372,074.25 stems from the sheriff's service fee and commission.

⁵Powell also argues that if the award of costs was proper under NRS 18.160, then the \$6,283.31 awarded was incorrect because \$1,908.04 of the

Powell waived his argument regarding attorney fees

Regarding the order awarding attorney fees, Powell argues that the district court abused its discretion by awarding such fees because the 21-day time limit under NRCP 54(d)(2)(B)(i) applies to the motion requesting attorney fees, and Tico failed to file its motion within 21 days of the judgment. Tico responds that the time limit established in NRCP 54(d)(2)(B)(i) does not apply to attorney fees incurred during post-judgment collection efforts because it would be impossible to identify those fees before they have been incurred.

Powell raises this argument for the first time on appeal, thus, this argument is waived and we need not consider it. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal.").

Powell also argues that the attorney fee motion was untimely because the judgment was satisfied when the sheriff received the funds, but as we discussed above, that argument is unpersuasive because the


costs occurred outside of the statutorily mandated six-month period established in NRS 18.160(2). However, if the dissatisfied party does not file the motion within the statutory time limit to dispute the specific costs in an order awarding costs, then it will have waived appellate review of the issue. *See Sheehan*, 121 Nev. at 493, 117 P.3d at 227. Powell never filed a motion to retax to dispute Tico's memorandum of costs within the five-day statutory limit under NRS 18.160(3). He thus waived his ability to dispute the amount of costs under the plain reading of NRS 18.160(3), and this court need not consider the issue further. *See Sheehan*, 121 Nev. at 493, 117 P.3d at 227. *See also Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981).


And, in light of our disposition, we decline to address Tico's alternative arguments for affirming the costs award including waiver.

judgment had not been factually and legally satisfied when the motion for attorney fees was filed. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁶


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Lynne K. Jones, Chief Judge
Millward Law, Ltd.
Humphrey Law PLLC
MOBO Law, LLP / Reno
Washoe District Court Clerk

⁶Insofar as Powell has raised arguments that are not specifically addressed in this order, we have considered the same and conclude that they need not be considered or do not present a basis for relief. Additionally, we take no position on the collectability of the costs and attorney fees awarded by the district court and affirmed in this order considering Jason Phillip Powell's passing and the possibility of the application of probate or trust law.