

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHARLES N. BELSSNER,
Appellant,
vs.
CAROLINE A. BOBBETT, D.D.S.,
Respondent.

No. 89633-COA

FILED

DEC - 9 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Eliz Jones*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Charles N. Belssner appeals from a district court final order dismissing a medical malpractice action. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

Belssner filed a complaint alleging professional negligence regarding dental services provided by respondent Caroline A. Bobbett, D.D.S. Bobbett subsequently moved to dismiss, asserting that Belssner did not comply with the affidavit requirements set forth in NRS 41A.071. Belssner opposed the motion to dismiss. The district court agreed with Bobbett that dismissal was warranted pursuant to NRS 41A.071 and dismissed the complaint. Belssner thereafter sought rehearing or reconsideration of the district court's order of dismissal and also sought disqualification of Department 15 of the district court, including the district court judge. The chief judge denied Belssner's request to disqualify the district court judge and Department 15. The district court also denied the motion for reconsideration, determining there was no basis to rehear or reconsider its decision to grant the motion to dismiss. This appeal followed.

Belssner, in his informal brief, insists that his complaint included the evidentiary equivalent to a medical affidavit showing the

dental crown lacked proper support. We review a “district court’s decision to dismiss [a] complaint for failing to comply with NRS 41A.071 de novo.” *Yafchak v. S. Las Vegas Med. Inv., LLC*, 138 Nev. 729, 731, 519 P.3d 37, 40 (2022); see also *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). Dismissal is only appropriate “if it appears beyond a doubt that [the plaintiff] could prove no set of facts, which, if true, would entitle [the plaintiff] to relief.” *Buzz Stew, LLC*, 124 Nev. at 228, 181 P.3d at 672. Under NRS 41A.071, a professional negligence action requires a supporting affidavit of merit from a medical expert. *Washoe Med. Ctr. v. Second Jud. Dist. Ct.*, 122 Nev. 1298, 1304, 148 P.3d 790, 794 (2006); see NRS 41A.071. Moreover, a district court must dismiss a professional negligence action “if the action is filed without an affidavit” of merit from a medical expert. NRS 41A.071.

We conclude that the district court did not err in granting the motion to dismiss. Belssner’s complaint did not include a supporting affidavit. A professional negligence complaint filed without a supporting affidavit is void ab initio and subject to dismissal. *Washoe Med. Ctr.*, 122 Nev. at 1304, 148 P.3d at 794. While Belssner contends his complaint had the evidentiary “equivalent” of such an affidavit, he offers no cogent argument in support of this contention. See *Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (recognizing appellant’s “responsibility to cogently argue . . . in support of his appellate concerns”). Belssner accordingly fails to demonstrate the district court erred by granting the motion to dismiss.

Belssner also contends that the district court did not provide sufficient accommodations for his disability and that district court staff harassed the interpreter, denying him a fair hearing. These contentions

were asserted below in support of his motion seeking rehearing or reconsideration of the motion to dismiss and his pleadings seeking disqualification of the district court. Accordingly, we address them as they relate to each decision.

Appellate courts generally review the denial of a motion for rehearing or reconsideration for abuse of discretion. *See Saticoy Bay, LLC, v. Thornburg Mortg. Secs. Tr. 2007-3*, 138 Nev. 335, 343, 510 P.3d 139, 146 (2022); *see also* EDCR 2.24(a) (“No motion once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court . . .”). “An abuse of discretion can occur when the district court bases its decision on a clearly erroneous factual determination or it disregards controlling law.” *MB Am., Inc. v. Alaska Pac. Leasing Co.*, 132 Nev. 78, 88, 367 P.3d 1286, 1292 (2016). And “deference is not owed to legal error.” *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 589, 245 P.3d 1190, 1197 (2010). Additionally, we review questions of law, including questions of statutory interpretation, *de novo*. *Soro v. Eighth Jud. Dist. Ct.*, 133 Nev. 882, 885, 411 P.3d 358, 361 (Ct. App. 2017); *Pub. Agency Comp. Tr. (PACT) v. Blake*, 127 Nev. 863, 866, 265 P.3d 694, 696 (2011).

As noted above, the district court correctly dismissed the complaint for failure to include the required affidavit of merit. In his motion for rehearing or reconsideration, Belssner did not challenge the basis for the district court’s dismissal or assert any new facts or evidence that would undermine it. As discussed above, to the extent Belssner contends his complaint has the evidentiary equivalent of such an affidavit, he offers no argument in support of this contention. *See Edwards*, 122 Nev. at 330 n.38,

130 P.3d at 1288 n.38. Accordingly, the district court did not abuse its discretion in denying the motion for rehearing or reconsideration.

To the extent Belssner's argument challenges the denial of his motion to disqualify the district court judge, we review such a decision for an abuse of discretion. *See Ivey v. Eighth Jud. Dist. Ct.*, 129 Nev. 154, 162, 299 P.3d 354, 359 (2013). NRS 1.235(2)(a) requires a party who seeks to disqualify a judge for actual or implied bias or prejudice to file an affidavit "[n]ot less than 20 days before the date set for trial or hearing of the case." A party can file a motion for disqualification pursuant to Nevada Code of Judicial Conduct (NCJC) Rule 2.11 after the deadline established by NRS 1.235(2) but the motion must be "based on new information learned or observed after the cutoff date," *Debiparshad v. Eighth Jud. Dist. Ct.*, 137 Nev. 691, 696, 499 P.3d 597, 601 (2021), and must be filed "as soon as possible" after the moving party becomes aware of the new information, *Towbin Dodge, LLC v. Eighth Jud. Dist. Ct.*, 121 Nev. 251, 260, 112 P.3d 1063, 1069 (2005).


The record supports the finding that the motion was not timely filed pursuant to NRS 1.235. The district court had granted the motion to dismiss on May 21, 2024, and filed the order on June 13, 2024. Belssner did not file pleadings seeking disqualification until July 11, 2024, nearly two months after the hearing. Further, his pleadings pointed to alleged errors occurring during the hearing on the motion to dismiss, but he did not allege the district court judge's decisions in the underlying case were based on knowledge acquired outside of the proceedings and the judge's decisions do 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"). Thus, the chief judge did not abuse his discretion in denying the motion to disqualify the district court judge and personnel.

Having considered Belssner's contentions and concluding that they lack merit, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

¹Insofar as Belssner raises arguments that are not specifically addressed in this order, we conclude that they do not present a basis for relief.

cc: Hon. Joseph Hardy, Jr., District Judge
Charles N. Belssner
Garin Law Group
Eighth District Court Clerk