

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GARY WALKER,
Appellant,
vs.
LAS VEGAS REVIEW-JOURNAL;
CLARK COUNTY DISTRICT
ATTORNEY'S OFFICE; AND GLENN
PUIT,
Respondents.

No. 89042-COA

FILED

FEB 03 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Elizabeth A. Brown*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Gary Walker appeals from a district court order dismissing the complaint in a tort action. Eighth Judicial District Court, Clark County; Veronica Barisich, Judge.

On September 29, 2020, Walker, who is an inmate, commenced the underlying tort action against respondents the Clark County District Attorney's office, the Las Vegas Review-Journal, and one of its employees, Glenn Puit. In his complaint, Walker alleged that, during his arraignment, a deputy district attorney provided inaccurate details concerning his criminal record, and that the Las Vegas Review-Journal later repeated those details in its reporting. Walker did not serve respondents with the summons and complaint prior to the expiration of the 120-day service period on January 27, 2021, or at any time thereafter.

Eventually, in May 2023, the district court entered an order directing Walker to appear at a scheduled hearing to show cause why his case should not be dismissed for failure to prosecute. Walker did not file a response to the show-cause order and, after he failed to appear at the show-

26-05306

cause hearing, the district court entered an order dismissing his complaint without prejudice based on his non-appearance and failure to effect timely service of process.

Walker moved for reconsideration, arguing that the facility in which he was incarcerated prevented him from appearing at the show-cause hearing and detailing the difficulties he encountered in attempting to serve Puit from May 2021 onwards. Walker did not assert that he attempted to serve the summons and complaint prior to May 2021 or that he attempted to serve any respondents other than Puit.

The district court entered a written order that construed Walker's motion as one for NRCP 60(b) relief, which the court denied. In particular, the court found that, although Walker's failure to appear at the show-cause hearing was excusable in light of his incarceration, dismissal was nevertheless appropriate since Walker did not effect timely service of process. This appeal followed.

On appeal, Walker challenges the dismissal of his complaint. This court reviews an order dismissing a complaint for failure to effect timely service of process for an abuse of discretion. *Moroney v. Young*, 138 Nev. 769, 770, 520 P.3d 358, 361 (2022). NRCP 4(e) provides time limits for service of process, generally providing that "[t]he summons and complaint must be served upon a defendant no later than 120 days after the complaint is filed, unless the court grants an extension of time under this rule." NRCP 4(e)(1). Under NRCP 4(e)(2), "[i]f service of the summons and complaint is not made upon a defendant before the 120-day service period . . . expires the court must dismiss the action, without prejudice, as to that defendant upon motion or upon the court's own order to show cause."

On appeal, Walker reiterates the arguments from his post-judgment motion concerning the reasons for his non-appearance at the show-cause hearing and his post-May 2021 efforts to serve Puit with the summons and complaint. However, regardless of the circumstances surrounding Walker's non-appearance at the show-cause hearing, the district court properly dismissed his complaint for failure to effect timely service of process.

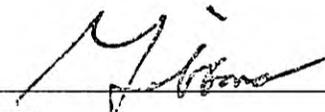
Nevada has adopted a procedure for seeking extensions of time to serve the summons and complaint when a plaintiff is unable to do so within the 120-day service period. In particular, the plaintiff must move for an extension of time before the service period passes and establish good cause for the extension. NRCP 4(e)(3) (stating the same); *Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 596-97, 245 P.3d 1198, 1201 (2010) (discussing the procedural requirements for obtaining an extension of time to serve process). And if the plaintiff moves for the extension after the service period expires, the plaintiff must first establish good cause for the untimely request for an extension before the district court may also consider whether there is good cause for granting the extension itself. *See* NRCP 4(e)(4); *Saavedra-Sandoval*, 126 Nev. at 596-97, 245 P.3d at 1201.

Here, Walker did not avail himself of the foregoing procedure by moving for an extension of time to effect service of process on respondents, either before or after the expiration of the service period. And while Walker did eventually discuss his post-May 2021 efforts to serve Puit in his post-judgment motion, he has never addressed, either below or on appeal, whether there was good cause for his failure to serve respondents *within the service period*, which expired on January 27, 2021, and whether

there was good cause for his failure to at least seek an extension of time *within that period*. See NRCP 4(e)(3), (4); *Saavedra-Sandoval*, 126 Nev. at 596-97, 245 P.3d at 1201. Consequently, Walker has not demonstrated that the district court abused its discretion by dismissing his complaint for failure to effect timely service of process. See *Moroney*, 138 Nev. at 770, 520 P.3d at 361. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Veronica Barisich, District Judge
Gary Walker
Attorney General/Carson City
Glenn Puit
Las Vegas Review-Journal
Eighth District Court Clerk

¹Insofar as Walker 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 or need not be addressed.