

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
ROBERTA J. SCHNEIDER

No. 88783-COA

LOUIS SCHNEIDER, SPECIAL
ADMINISTRATOR OF THE ESTATE
OF ROBERTA J. SCHNEIDER,

Appellant,

vs.

CAITLIN KALILAINEN,
Respondent.

FILED

APR 14 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Louis Schneider, special administrator of the estate of Roberta J. Schneider, appeals from a district court order denying a NRCP 60(b)(1) motion to set aside. Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.

In the proceedings below, Louis petitioned the district court for a turnover order and temporary protective order against respondent Caitlin Kalilainen. During this time, Louis's original counsel was disbarred from the practice of law. At a subsequent status check on May 5, 2023, Aaron Dean appeared at the request of the probate commissioner and orally agreed to represent Louis on a pro bono basis. The probate commissioner also set a calendar call on October 20, 2023.

On the date of the scheduled calendar call, no persons appeared on behalf of the estate, and no one contacted the district court or opposing counsel on the estate's behalf to explain the absence. In light of Louis's failure to appear on behalf of the estate, Caitlin's counsel made an oral motion to dismiss under EDCR 2.69(c) and NRS 132.010, and the probate commissioner granted that request in a report and recommendation filed on

November 1. Louis did not file an opposition to the report and recommendation, and the district court adopted that report and recommendation in a written order filed on November 27.

On December 1, Dean, on behalf of Louis, filed a motion to set aside the dismissal under NRCP 60(b)(1), claiming that the nonappearance at the calendar call constituted excusable neglect as he was hospitalized for emergency surgery on October 8 and in recovery during the hearing on October 20. Caitlin opposed, and following a hearing on the motion, the district court entered an order denying Louis's request for NRCP 60(b)(1) relief. This appeal followed.

On appeal, Louis argues that the district court abused its discretion when it found that he did not establish excusable neglect under NRCP 60(b)(1) and that the district court did not adequately consider the *Yochum* factors. Caitlin responds that the district court acted within its discretion by considering the *Yochum* factors as a whole.¹

Under NRCP 60(b)(1), a district court "may relieve a party . . . from a final judgment, order, or proceeding" on grounds of "mistake, inadvertence, surprise, or excusable neglect." When determining whether such grounds for relief exist, the district court must facilitate appellate review by considering and issuing factual findings pursuant to the four factors announced in *Yochum v. Davis*, 98 Nev. 484, 486, 653 P.2d 1215, 1216 (1982), *overruled in part by Epstein v. Epstein*, 113 Nev. 1401, 1405, 950 P.2d 771, 773 (1997). *See Willard v. Berry-Hinckley Indus.*, 136 Nev.

¹To the extent that Caitlin contends reversal is futile because Louis purportedly abandoned his claims against her, she failed to raise the abandonment issue before the district court in the first instance, and we need not address it on appeal. *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 [forfeited] and will not be considered on appeal.").

467, 471, 469 P.3d 176, 180 (2020). “The district court has wide discretion in deciding whether to grant or deny a motion to set aside a judgment under NRCP 60(b)[, and its] determination will not be disturbed on appeal absent an abuse of discretion.” *Rodríguez v. Fiesta Palms, LLC*, 134 Nev. 654, 656, 428 P.3d 255, 257 (2018) (quoting *Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996)); see also *Davis v. Ewalefo*, 131 Nev. 445, 450, 352 P.3d 1139, 1142 (2015) (“Although this court reviews a district court’s discretionary determinations deferentially, deference is not owed to legal error, or to findings so conclusory they may mask legal error.”).

In its order, the district court found that Louis did not adequately demonstrate excusable neglect due to

[his counsel’s] (1) appearance at the May 2023 Hearing wherein he received actual notice of the Calendar Call, (2) failure to file a notice of appearance, (3) failure to timely register for e-service, (4) failure to provide notice to the Court or opposing counsel of his inability to attend the Calendar Call, (5) failure to contact opposing counsel at any point in this proceeding (other than serving opposing counsel with the Motion), (6) failure to object to the Report and Recommendation while [his counsel and or his counsel’s] office worked on other matters, [and his] (7) failure to file any reply to the Opposition to the instant Motion.

However, the district court did not provide an express analysis of the required *Yochum* factors, either in writing or at the hearing. See *Willard*, 136 Nev. at 471, 469 P.3d at 180 (stating that our appellate courts prefer a written analysis of the *Yochum* factors).

Instead, the district court found that “[f]or the same reasons this Court found that the Motion fails to establish excusable neglect, the Court finds that the Motion fails to satisfy the *Yochum* factors, as the Motion fails to establish ‘(1) an absence of an intent to delay the proceedings, (2) a lack of knowledge of the procedural requirements or (3)

good faith.” We conclude that this is insufficient to satisfy the requirement of express factual findings sufficient to facilitate our appellate review. See *Willard*, 136 Nev. at 471, 469 P.3d at 180; *Davis*, 131 Nev. at 450, 352 P.3d at 1142. And while the district court discussed two of the factors during the hearing on the motion, namely, Louis’s prompt application to remove the judgment and knowledge of procedural requirements, our review of the transcripts does not reveal express factual findings related to the factors concerning an absence of intent to delay the proceedings or good faith.

Because the district court did not expressly analyze those factors when denying Louis’s motion for relief under NRCP 60(b)(1), we conclude the district court abused its discretion in denying his request for relief. See *Rodriguez*, 134 Nev. at 656, 428 P.3d at 257. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.



_____, C.J.
Bulla



_____, J.
Gibbons



_____, J.
Westbrook

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Dept. 26
Israel Kunin, Settlement Judge
The Dean Legal Group, Ltd.
Lee Kiefer & Park, LLP
Eighth District Court Clerk