


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DONALD STUBBE AND TANYA  
STUBBE,  
Appellants,  
vs.  
PAUL FENNER AND RENA FENNER,  
Respondents.

No. 90232-COA

**FILED**

APR 14 2026

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Donald Stubbe and Tanya Stubbe appeal from a district court order denying a motion for NRCP 60(b) relief. Third Judicial District Court, Lyon County; John Schlegelmilch, Judge.

In January 2022, respondents Paul Fenner and Rena Fenner initiated a civil action against the Stubbes concerning an easement on real property owned by the Stubbes (the Stubbe Parcel) designated as Smith Lane. A 1993 parcel map prepared by the previous owners of the Smith Parcel was recorded that depicted the boundary lines and easements encumbering the Stubbe Parcel and three adjoining parcels (Smith Parcel Map). The prior owners of the Fenner Parcel recorded a parcel map that included the Smith Lane Easement in the top left corner and directly referenced the Smith Parcel Map. The district court entered an order granting summary judgment in March 2023, finding that the Fenners were entitled to a declaration that the Smith Lane Easement was a valid, express easement. This court affirmed the district court's order in a prior appeal,

concluding that the Smith Parcel Map was properly signed and recorded, and thus properly created the easement. *See Stubbe v. Fenner*, No. 86388-COA, 2024 WL 2931208 (Nev. Ct. App. June 10, 2024) (Order of Affirmance).

After remittitur was issued in the prior appeal, in October 2024 the Stubbes filed a motion for NRCP 60(b)(3), (4), and (6) relief alleging, among other things, that the Smith Lane Easement was not valid because the parcel maps were “fraudulent,” the easement had never been accepted by the county or city, and Smith Lane was only intended for private use. The Fenners opposed that motion. The district court found that to the extent the Stubbes sought relief pursuant to NRCP 60(b)(3), the motion was untimely as it was filed more than six months since entry of the judgment. The court further found that the judgment was not void pursuant to NRCP 60(b)(4) because the Stubbes were making the same arguments they had previously raised that the Smith Lane Easement was invalid and that such arguments did not satisfy the standard required for a judgment to be declared void, as they failed to dispute the court’s jurisdiction over the matter. Furthermore, the court found that the Stubbes failed to identify extraordinary circumstances justifying relief pursuant to NRCP 60(b)(6) as their grounds for relief were identical to the grounds for relief requested under NRCP 60(b)(3). This appeal followed.

On appeal, the Stubbes argue that the district court improperly denied their NRCP 60(b) motion because the Smith Lane Easement is invalid.

We review a district court's denial of an NRCP 60(b) motion for an abuse of discretion and will uphold the district court's decision to deny an NRCP 60(b) motion if sufficient evidence in the record supports that decision. *Kahn v. Orme*, 108 Nev. 510, 513, 835 P.2d 790, 792 (1992), *overruled on other grounds by Epstein v. Epstein*, 113 Nev. 1401, 1405, 950 P.2d 771, 773 (1997); *Smith v. Smith*, 102 Nev. 110, 111-12, 716 P.2d 229, 230 (1986) (recognizing that this court will uphold the decision of the district court granting or denying an NRCP 60(b) motion if there is sufficient evidence in the record to support the decision). In doing so, we will not disturb factual findings that are supported by substantial evidence. *Ogawa v. Ogawa*, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009). However, we review purely legal questions de novo. *Law Offs. of Barry Levinson, P.C. v. Milko*, 124 Nev. 355, 362, 184 P.3d 378, 384 (2008).

NRCP 60(b) allows the district court to set aside a final order for various reasons, including fraud, misrepresentation, or misconduct by an opposing party; or a void judgment. *See* NRCP 60(b)(3), (4). A motion under NRCP 60(b)(3) must be made "no more than 6 months after the date of the proceeding or the date of service of written notice of entry of the judgment or order, whichever date is later."<sup>1</sup> NRCP 60(c)(1). Additionally,

---

<sup>1</sup>Insofar as the Stubbess suggest the six month deadline did not apply because the Fenners committed fraud upon the court, *see* NRCP 60(d)(3) (authorizing the district court to "set aside a judgment for fraud upon the court"), which does not have the same time constraints as NRCP 60(b)(1)-(3), they have failed to establish fraud upon the court warranting relief. *See NC-DSH, Inc. v. Garner*, 125 Nev. 647, 657, 218 P.3d 853, 860-61 (2009) (holding that a district court may only set aside a judgment based on fraud

pursuant to NRCP 60(b)(4), “[f]or a judgment to be void, there must be a defect in the court’s authority to enter judgment through either lack of personal jurisdiction or jurisdiction over subject matter in the suit.” *Gassett v. Snappy Car Rental*, 111 Nev. 1416, 1419, 906 P.2d 258, 261 (1995), *superseded in part by rule as stated in In re Estate of Black*, 132 Nev. 73, 76, 367 P.3d 416, 418 (2016). Furthermore, relief may not be sought under NRCP 60(b)(6) when it would have been available under NRCP 60(b)(1)-(5). *Vargas v. J Morales Inc.*, 138 Nev. 384, 389, 510 P.3d 777, 781 (2022).

Here, the Stubbes’ arguments on appeal primarily challenge the validity of the Smith Lane Easement and dispute the sufficiency of the evidence presented before the district court. However, because their motion was filed well beyond the six-month time limit under NRCP 60(b)(3), the district court properly determined that their motion was untimely for NRCP 60(b)(3) relief. *See* NRCP 60(c)(1). With respect to NRCP 60(b)(4), the Stubbes’ arguments on appeal do not challenge the court’s authority to enter the underlying judgment or its jurisdiction to do so and instead challenge

---

when the movant establishes the fraud “by clear and convincing evidence” (internal quotation marks omitted); *see also Bonnell v. Lawrence*, 128 Nev. 394, 402, 282 P.3d 712, 716-17 (2012) (explaining that after the six-month period to obtain relief from a judgment under Rule 60(b) has elapsed, relief from a judgment based on fraud upon the court is rare and normally “to prevent a grave miscarriage of justice” and where the injustice is of such magnitude as to warrant departure from the strict principles of res judicata) (quoting *United States v. Beggerly*, 524 U.S. 38, 47 (1998)).

the merits of the Fenners' claims concerning the validity of the Smith Lane Easement. Thus, the district court did not abuse its discretion in denying appellants' motion to set aside the summary judgment pursuant to NRCP 60(b)(4). Furthermore, because the Stubbes do not address the district court's determination that they failed to demonstrate extraordinary circumstances warranting relief under NRCP 60(b)(6) (allowing the district court to set aside a final judgment for any other reason that justifies relief), in their opening brief, we do not reach that issue. *See Palmieri v. Clark County*, 131 Nev. 1028, 1033 n.2, 367 P.3d 442, 446 n.2 (Ct. App. 2015) (declining to consider issues that the appellant failed to raise on appeal).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, C.J.  
Bulla

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Westbrook

---

<sup>2</sup>Insofar as the Stubbes raise 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.

cc: Hon. John Schlegelmilch, District Judge  
Donald Stubbe  
Tanya Stubbe  
Viloria, Oliphant, Oster & Aman L.L.P.  
Third District Court Clerk