



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BO ZHANG, AN INDIVIDUAL,  
Appellant,  
vs.  
GOLD SHIELD GROUP, LLC, A  
NEVADA DOMESTIC LIMITED  
LIABILITY COMPANY,  
Respondent.

No. 89992-COA

*ORDER OF AFFIRMANCE*

Bo Zhang appeals from district court orders denying her motions to set aside an entry of default. Eighth Judicial District Court, Clark County; Joanna Kishner, Judge.

In July 2023, respondent Gold Shield Group, LLC (Gold Shield), filed a complaint against Zhang and two nonparties to this appeal. Gold Shield served Zhang on July 2, 2023, and when Zhang failed to file an answer or responsive pleading within her time for doing so, Gold Shield obtained an entry of default pursuant to NRCP 55(a). In May 2024, Zhang retained counsel and moved to set aside the default, which was denied without prejudice for lack of evidentiary support.

In October 2024, Zhang filed a renewed motion to set aside default that alleged her failure to file a response was due to a miscommunication between two attorneys, whom she apparently believed would handle the defense. Specifically, Zhang alleged in July 2023, she attempted to meet, and presumably hire, Kelvin Wen to defend her in this matter but Wen was unavailable as he was in China. Zhang alleged she was informed that Wen had contacted attorney Michael Sanft and that

Sanft would obtain an extension of time to file an answer so that Wen could return and assume defense of the matter. It was not until May 2024 that Zhang learned counsel had not obtained an extension to file a responsive pleading and default had issued. Sanft also provided an affidavit attesting that he attempted to obtain an extension to file a responsive pleading and following that had assumed Zhang retained Wen to defend her. Gold Shield opposed, arguing that Zhang failed to show good cause and instead her allegations demonstrated only that she ignored the proceedings for nearly ten months despite acknowledging service. Further, Gold Shield denied anyone had contacted counsel to obtain an extension.

The district court held a hearing, recognizing an entry of default can only be set aside based on a showing of good cause pursuant to NRCP 55(c), and after considering the *Yochum*<sup>1</sup> factors, denied the renewed motion to set aside.<sup>2</sup> The district court found Zhang failed to demonstrate good cause under NRCP 55(c) because she was aware of the litigation, consulted with counsel who could have assisted her with filing a responsive pleading, and then failed to take any action over a nine month period to ensure she had retained counsel or that counsel had filed a responsive pleading. The court further found that Zhang failed to demonstrate a meritorious defense

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<sup>1</sup>*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) (holding a litigant no longer needs to demonstrate a meritorious defense to set aside a default judgment).

<sup>2</sup>We note the district court's order cited to *Hotel Last Frontier Corp. v. Frontier Properties, Inc.*, 79 Nev. 150, 380 P.3d 293 (1963), as establishing the factors a court considers to determine good cause for setting aside the entry of default. However, the factors identified in *Hotel Last Frontier Corp.*, were formally adopted in *Yochum* and are commonly referred to as the *Yochum* factors. 98 Nev. at 486, 653 P.2d at 1216.

and that she likewise failed to demonstrate a lack of intent to delay the proceedings due to her knowledge of the proceedings and failure to respond. Accordingly, the court found Zhang failed to demonstrate good cause. Zhang now appeals.

On appeal, Zhang challenges the denial of both motions to set aside default, arguing the court erred by applying the *Yochum* factors because she brought the motions pursuant to NRCP 55(c). Zhang further argues the court failed to properly consider her factual assertions, which allegedly showed the failure to respond was the result of miscommunication, and thus erred in finding she did not demonstrate good cause.<sup>3</sup>

We review an order denying a motion to set aside an entry of default for an abuse of discretion. *Landreth v. Malik*, 127 Nev. 175, 188, 251 P.3d 163, 171 (2011). “A decision that lacks support in the form of substantial evidence is arbitrary or capricious and, therefore, an abuse of discretion.” *Stratosphere Gaming Corp. v. City of Las Vegas*, 120 Nev. 523, 528, 96 P.3d 756, 760 (2004) (internal quotation marks omitted). In asking to set aside a default for good cause, “the moving party must show some excuse for its failure to answer or otherwise defend.” *Sealed Unit Parts Co. v. Alpha Gamma Chapter of Gamma Phi Beta Sorority Inc. of Reno*, 99 Nev. 641, 643, 668 p.2d 288, 289 (1983), *overruled on other grounds by Epstein*, 113 Nev. at 1405, 950 P.2d at 773. Although good cause for setting aside a default entered by a clerk is “somewhat broader” than “mistake, inadvertence, surprise or excusable neglect” under NRCP 60(b)(1), it

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<sup>3</sup>We affirm the denial of Zhang’s first motion to set aside default as Zhang’s renewed motion before the district court conceded the first motion was “appropriately dismissed” for lack of evidentiary support.

nevertheless does not encompass “inexcusable neglect.” See *Intermountain Lumber & Builders Supply, Inc. v. Glens Falls Ins. Co.*, 83 Nev. 126, 130, 424 P.2d 884, 886 (1967); see also *Long v. A-1 24 Hour Towing, Inc.*, 101 Nev. 682, 683 n.1, 707 P.2d 1151, 1152 n.1 (1985) (noting there is a significant procedural difference in seeking to set aside an entry of default or a default judgment).

Zhang maintains that because the district court evaluated the *Yochum* factors, which is only required when evaluating a motion to set aside a default judgment pursuant to NRCP 60(b)(1), *Willard v. Berry-Hinckley Indus.*, 136 Nev. 467, 468, 469 P.3d 176, 178 (2020), the court erroneously treated her motion as seeking to set aside a default judgment rather than an entry of default. We disagree. Although the district court is not required to analyze the *Yochum* factors when evaluating whether good cause exists under NRCP 55(c), we are unaware of any authority prohibiting the court from doing so. See *Kellogg v. Shipp*, Docket No. 86356-COA, 2024 WL 5086010, at \*3 (Nev. Ct. App. Dec. 11, 2024) (Order of Reversal and Remand) (noting the *Yochum* factors guide the district court’s good cause analysis). Further, the district court’s order denying the renewed motion to set aside expressly cited NRCP 55(c)’s good cause standard before analyzing the *Yochum* factors. Accordingly, we conclude Zhang has not demonstrated the district court abused its discretion by analyzing the *Yochum* factors

when evaluating a motion to set aside default under NRCP 55(c).<sup>4</sup>

Zhang next argues the district court's factual findings were not supported by substantial evidence and that the court ignored her factual assertions. Specifically, Zhang contends she demonstrated excusable neglect, satisfying the good cause standard, because she was unfamiliar with the legal system, did not intend to delay the proceedings, lacked knowledge of the procedural requirements, and believed either Wen or Sanft would obtain an extension of time to respond.

Here, we conclude substantial evidence supports the district court's findings and thus supports the court's ultimate finding that Zhang failed to demonstrate good cause. Although Zhang contends the entry of default was the result of a miscommunication and that she did not intend to delay the proceedings, the record nevertheless supports a finding of inexcusable neglect. Namely, it is undisputed that after Zhang's initial contact with counsel, she took no action for nearly nine months to ensure she was represented or ensure that counsel filed a responsive pleading or otherwise obtained an extension of time. And while Zhang argued she lacked understanding of judicial procedures, she consulted with counsel who apparently informed her of the need to file a responsive pleading.

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<sup>4</sup>Zhang additionally argues the district court erred by requiring she demonstrate a meritorious defense. We agree but conclude such error was harmless. See *Epstein*, 113 Nev. at 1405, 950 P.2d at 773 (overruling prior caselaw which required a litigant to demonstrate a meritorious defense when moving to set aside a default judgment); *Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) (holding "[a]n error is harmless when it does not affect a party's substantial rights"); cf. NRCP 61 (establishing a court will not reverse a harmless error). For the reasons discussed below, substantial evidence supports the district court's conclusion that Zhang lacked good cause to set aside the default and thus the court's requirement of a meritorious defense was harmless.

Indeed, Zhang's opening brief admits that she assumed her preferred counsel would "be back sometime in the future" and that Sanft would "ask the opposing counsel for more time" to file a response. However, there were no factual allegations demonstrating Zhang confirmed with Sanft that he had obtained an extension or took any action during the nine-month period to confirm if her preferred counsel had returned and assumed the defense of this matter. Under these facts, we cannot conclude the district court abused its discretion in determining Zhang lacked good cause to set aside the entry of default.<sup>5</sup>

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
Bulla, C.J.

  
Gibbons, J.

  
Westbrook, J.

cc: Hon. Joanna Kishner, District Judge  
SOS Injury Lawyers  
Lin Law Group  
Eighth District Court Clerk

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<sup>5</sup>Insofar as Zhang 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.