



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROGER ALLEN KENIS,
Appellant,

vs.

MGM RESORTS INTERNATIONAL, A
DELAWARE CORPORATION;
MANDALAY RESORT GROUP, A
NEVADA COMPANY; MANDALAY BAY
LLC, F/K/A MANDALAY CORP., A
NEVADA LIMITED-LIABILITY
COMPANY; MGM RESORTS FESTIVAL
GROUNDS, LLC, A NEVADA
DOMESTIC LIMITED-LIABILITY
COMPANY; AND MGM RESORTS
VENUE MANAGEMENT, LLC, A
NEVADA LIMITED-LIABILITY
COMPANY,
Respondents.

No. 90756-COA

ORDER OF AFFIRMANCE

Roger Allen Kenis appeals from a district court order denying a motion for NRCP 60(d)(3) relief. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

The underlying proceeding arises out of the October 1 shooting at the Route 91 Harvest Festival. After opting out of a mediated settlement reached in a separate proceeding concerning the shooting, Kenis filed a pro se action against respondents MGM Resorts and other related entities (collectively MGM), setting forth various causes of action, including breach of the duty of care, negligence, fraud, breach of the implied covenant of good faith and fair dealing, and intentional infliction of emotional distress. The district court dismissed his claims for fraud, breach of the implied covenant of good faith and fair dealing, and intentional infliction of emotional

distress. MGM eventually sought summary judgment on the two remaining claims, breach of the duty of care and negligence, which the district court granted, concluding that Kenis's claims for breach of the duty of care and negligence failed as a matter of law under innkeeper and standard common law theories of liability. Kenis appealed the grant of summary judgment in 2024, and this court affirmed. *See Kenis v. MGM Resorts Int'l*, No. 84160-COA, 2024 WL 150757 (Nev. Ct. App. Jan. 12, 2024) (Order of Affirmance).

In April 2025, Kenis filed a motion for relief for fraud upon the court pursuant to NRCP 60(d)(3), seeking relief from the January 2022 order granting MGM summary judgment. His motion asserted, among other things, that during the proceedings before summary judgment was entered, the district court indicated it would obtain and review Kenis's military and medical records, but that he discovered his full records were not obtained. He also argued that the district court was biased against him due to campaign donations made to the district court and other judges. MGM opposed Kenis's motion. Thereafter, the district court entered an order denying Kenis's motion, finding he failed to prove fraud upon the court. This appeal followed.

On appeal, Kenis challenges the district court's decision to deny his NRCP 60(d)(3) motion. We review the district court's decision to deny Kenis's motion for an abuse of discretion. *See Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 656, 428 P.3d 255, 257 (2018) ("The district court has wide discretion in deciding whether to grant or deny a motion to set aside a judgment under NRCP 60(b)."); *NC-DSH, Inc. v. Garner*, 125 Nev. 647, 657, 218 P.3d 853, 861 (2009) (observing that NRCP 60(d)(3) relief is "addressed to the sound discretion of the trial court").

Fraud upon the court is limited to “fraud which does, or attempts to, subvert the integrity of the court itself,” or “fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases.” *NC-DSH*, 125 Nev. at 654, 218 P.3d at 858. It thus applies to “only the most egregious misconduct.” *Occhiuto v. Occhiuto*, 97 Nev. 143, 146 n.2, 625 P.2d 568, 570 n.2 (1981). And “[a] party seeking to vacate a final judgment based on fraud upon the court bears a heavy burden” to establish such fraud by “clear and convincing evidence.” *NC-DSH*, 125 Nev. at 657, 218 P.3d at 860-61; *see also Bonnell v. Lawrence*, 128 Nev. 394, 402, 282 P.3d 712, 717 (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))).

In seeking to set aside the judgment under NRCP 60(d)(3) for fraud upon the court, Kenis focused on representations about alleged bias related to campaign donations to the district court. However, Kenis does not demonstrate that such campaign donations constituted fraud. *See NC-DSH*, 125 Nev. at 654, 218 P.3d at 858; *cf. Ivey v. Eighth Jud. Dist. Ct.*, 129 Nev. 154, 162, 299 P.3d 354, 359 (2013) (“Campaign contributions made within statutory limits cannot constitute grounds for disqualification of a judge under Nevada law.”); *In re Petition to Recall Dunleavy*, 104 Nev. 784, 790, 769 P.2d 1271, 1275 (1988) (explaining that “intolerable results” would occur if litigants could disqualify a judge because an attorney for the opposing party donated to the judge’s campaign). Moreover, insofar as

Kenis appears to allege that his medical records were fraudulently concealed from him, he fails to cogently explain this point, and the record does not support his allegations. Relief for fraud upon the court is rare, and under these facts, the district court properly declined to set aside the summary judgment under NRCP 60(d)(3).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Jerry A. Wiese, District Judge
Roger Allen Kenis
Pisanelli Bice, PLLC
Eighth District Court Clerk

¹Insofar as Kenis 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.