FILED
10/28/2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAVANZ CROSBY, Appellant, vs. PROTECTIVE FORCE INTERNATIONAL; DAVLYN INVESTMENTS; DYLAN RUTTERBRUSH; AND WYATT RUTTERBRUSH, Respondents.	No. 91609-COA

ORDER AFFIRMING IN PART, REVERSING IN PART, AND REMANDING

Lavanz Crosby appeals from district court orders dismissing his complaint for lack of service of process and denying reconsideration. Eighth Judicial District Court, Clark County; Hon. Cheryl B. Moss, Senior Judge; Hon. Robert E. Estes, Senior Judge.[1]

On April 13, 2025, Crosby initiated a civil action against respondents Protective Force International (PFI), Davlyn Investments (Davlyn), Dylan Rutterbrush, Wyatt Rutterbrush, and a third individual named Ashley Rosas, who is not a party to this appeal, alleging causes of action for battery, assault, malicious prosecution, intentional infliction of emotional distress, false imprisonment, defamation/libel per se, theft, negligence, and negligent supervision, all arising out of an incident on April 14, 2023. In June 2025, Crosby attempted to serve the summons and complaint on all five defendants by regular mail. The person named Ashley Rosas was the only defendant to file an answer following Crosby's attempted service. However,

[1]Hon. Cheryl B. Moss signed the order dismissing the complaint and Hon. Robert E. Estes signed the order denying the motion for reconsideration.

upon learning that the person he had served was not the right Ashley Rosas, Crosby voluntarily dismissed her from the case.

Meanwhile, Crosby purportedly discovered on or around July 23, 2025, that his attempt to serve the defendants by mail was ineffective. On August 14, 2025, three days after the 120-day service period expired, Crosby obtained new summonses from the clerk of the court. Between August 18 and 22, 2025, Crosby served the complaint on Davlyn, PFI, Dylan, and Wyatt.

Shortly after making service upon Davlyn, PFI, Dylan, and Wyatt, Crosby filed an untimely motion to extend the time to complete service. Davlyn and PFI filed motions to dismiss Crosby's complaint with prejudice pursuant to NRCP 4(e)(2) due to the untimely service. While Davlyn and PFI's motions were pending, Dylan and Wyatt each filed pro se answers to Crosby's complaint. Of relevance to the issues on appeal, neither Dylan nor Wyatt raised Crosby's untimely service as a defense.

The district court subsequently entered an order denying Crosby's motion to extend the service deadline. In denying the motion, the court noted Crosby's motion was untimely and referenced the factors a district court must consider in evaluating whether a party has adequately established good cause to extend the time for service, *see, e.g.*, *Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 597 n.2, 245 P.3d 1198, 1201 n.2 (2010), and concluded that it "must dismiss the instant case [without prejudice] for failure to serve within . . . 120 days" pursuant to NRCP 4(e)(2). The district court also denied Davlyn and PFI's motions to dismiss Crosby's complaint as moot.

Crosby thereafter moved the district court for reconsideration. Crosby asserted the court overlooked material facts and had not properly applied the good cause factors because it did not make written findings as to each factor. With respect to his claim that the court overlooked material facts,

Crosby reiterated his prior good-cause arguments. In their oppositions to reconsideration, Davlyn and PFI asserted that, even assuming the court abused its discretion in denying the motion to extend the time for service, any extension of service would ultimately be moot because Crosby had not effected service in August 2025 on persons authorized to accept service for either Davlyn or PFI pursuant to NRCP 4.2(c)(1)(A). Crosby argued in reply that Davlyn and PFI waived any challenge to defective service by failing to raise the issue in their respective motions to dismiss.

The district court denied Crosby's motion for reconsideration. In its order, the court found that Crosby failed to provide new evidence or information warranting reconsideration. The court further explained that it considered the good cause factors in denying Crosby's motion to extend the service deadline. The district court's order denying reconsideration did not address Davlyn and PFI's alternate argument regarding Crosby's failure to serve process on persons authorized to accept service under NRCP 4.2(c)(1)(A). This appeal followed.

Crosby's first argument on appeal is that the district court abused its discretion by failing to conduct analysis of the *Saavedra-Sandoval* good-cause factors. Specifically, Crosby argues the district court's order denying his untimely motion to extend service failed to assess whether he demonstrated good cause for the late filing of his motion and failed to make any findings regarding any of the *Saavedra-Sandoval* factors.

We review a district court's denial of a motion for an extension of time to effect service—and its attendant dismissal of the underlying complaint—for an abuse of discretion. *Saavedra-Sandoval,* 126 Nev. at 595, 245 P.3d at 1200. NRCP 4(e)(1) specifies that, absent leave from the court, a plaintiff must serve the summons and complaint upon a defendant no later

than 120 days after the complaint is filed. NRCP 4(e)(2) in turn provides that if service is not made within that 120-day period, the court "must dismiss the action, without prejudice, as to that defendant upon motion or upon the court's own order to show cause." Under NRCP 4(e)(4), if a plaintiff files a motion for extension of time after the 120-day service period has lapsed, the district court must first determine whether good cause exists for the filing of an untimely motion. NRCP 4(e)(4); *see also Saavedra-Sandoval*, 126 Nev. at 597, 245 P.3d at 1201. "Only upon a showing of good cause for the delay in filing the motion to enlarge time should the court then engage in a complete *Scrimer* analysis to determine whether good cause also supports the request for enlargement of time for service of process . . . ." *Id.*; *see also Scrimer v. Eighth Jud. Dist. Ct.*, 116 Nev. 507, 516, 998 P.2d 1190, 1195-96 (2000) (establishing various factors to determine whether good cause exists to allow a plaintiff to serve process beyond the 120-day deadline).

In arguing there was good cause to allow him to untimely move for an extension of the service deadline, Crosby asserted he delayed his second attempt at serving the defendants because he was waiting for the district court to grant him leave to proceed in forma pauperis. In a subsequent memorandum of points and authorities, Crosby additionally argued there was good cause for his untimely motion to extend the service deadline because: (1) he was diligent in his effort to serve the defendants; (2) he was an inexperienced pro se litigant and was not familiar with the rules regarding service of process; (3) he was waiting for defendants to file a responsive pleading; (4) the defendants were on notice of the suit and intentionally concealed the fact that service was improper; and (5) dismissal of his complaint would essentially be with prejudice because the statute of limitations for his causes of action had lapsed.

In considering whether to permit an untimely motion to extend service, the district court "should consider" factors "that would impede the plaintiff's attempts at service and, in turn, could result in the filing of an untimely motion to enlarge the time to serve the defendant with process," including efforts at evading service, the plaintiff's diligence in attempting to serve defendants, and the defendants' knowledge of the existence of the lawsuit. *Saavedra-Sandoval*, 126 Nev. at 597, 245 P.3d at 1201.

Turning first to Crosby's assertion that he was diligent in his efforts to serve the defendants, the record reflects that Crosby waited 66 days after filing his complaint to attempt service. After learning the mail service was ineffective, Crosby waited approximately three weeks to properly effect service. Although Crosby asserts that he was waiting for the district court to grant his application to proceed in forma pauperis before making his second attempt at service, Crosby provided no explanation for why he could not have moved to extend the time for service while his in forma pauperis application was pending.

As for Crosby's contention that he was not familiar with the rules regarding service, Crosby's lack of knowledge of the service requirements and the consequences of his non-compliance does not excuse his failure to comply with the rules governing service of process as it is well-established that pro se parties are generally held to the same standards as other litigants and may not use ignorance as an excuse for failing to comply with procedural rules. *See Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 659, 428 P.3d 255, 258-59 (2018) (noting there are no special rules for pro se litigants and explaining that "a pro se litigant cannot use his alleged ignorance as a shield to protect him from the consequences of failing to comply with basic procedural requirements"),

holding modified on other grounds by Willard v. Berry-Hinckley Indus., 136 Nev. 467, 471 n.6, 469 P.3d 176, 180 n.6 (2020).

Crosby's contention that he was waiting for the defendants to file responsive pleadings also did not constitute good cause. As noted above, in determining whether a plaintiff has established good cause for an untimely motion to extend service, the district court must assess factors "that would impede the plaintiff's attempts at service." *Saavedra-Sandoval*, 126 Nev. at 597, 245 P.3d at 1201. Crosby's decision to delay prosecuting his claims until the defendants filed responsive pleadings was a self-created impediment and therefore did not provide good cause to excuse his untimely motion.

As to Crosby's assertion that the defendants were on notice of his suit and intentionally concealed the defects in service, Crosby provided no evidence to the district court demonstrating any defendant—other than the person named Ashley Rosas—actually received the summons and complaint or were otherwise aware of the pending litigation. Finally, while the statutes of limitations applicable to Crosby's claims expired on April 14, 2025, the day after he filed his complaint, that fact does not constitute good cause to excuse the untimeliness of his motion to extend the service period. *See id.* at 597, 245 P.3d at 1201. We therefore conclude Crosby has not demonstrated the district court abused its discretion in denying his untimely motion to extend the service period.[2]

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[2]Crosby appears to argue on appeal that the district court was required to make detailed findings regarding the *Saavedra-Sandoval* factors relevant to determining whether there was good cause to permit his untimely motion to extend the service deadline. Crosby also appears to assert that the district court abused its discretion by denying his motion for reconsideration, as he contends reconsideration was warranted based upon the court's failure to make

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Second, Crosby argues that the district court abused its discretion in dismissing the complaint as to Dylan and Wyatt Rutterbrush because both individuals filed responsive pleadings to his complaint without raising insufficient service of process as a defense. We also review this argument for an abuse of discretion. *Id.* at 595, 245 P.3d at 1200. Before a defendant files a responsive pleading such as an answer, that defendant may move to dismiss for insufficiency of service of process. *See* NRCP 12(b)(4). "Alternatively, a defendant may raise its defenses, including those relating to jurisdiction and service, in a responsive pleading." *Hansen v. Eighth Jud. Dist. Ct.*, 116 Nev. 650, 656, 6 P.3d 982, 986 (2000). Objections to service of process are waived, however, if not made in a timely motion or not included in a responsive pleading such as an answer. *Id.*; *see also* NRCP 12(h)(1) (listing insufficient service of process as a defense that is waived if not made in a Rule 12 motion or raised in a responsive pleading).

As discussed above, Dylan and Wyatt Rutterbrush filed separate answers to Crosby's complaint after Crosby's second service attempt. Neither Dylan nor Wyatt raised the untimeliness of Crosby's service as a defense. Hence, Dylan and Wyatt waived any objection to the service of process. *See* NRCP 12(h)(1). Furthermore, despite being identified as respondents and

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detailed findings concerning his request to extend the service deadline. However, *Saavedra-Sandoval* does not require the district court to make detailed findings regarding whether a plaintiff has established good cause to excuse an untimely motion to extend the service deadline, and Crosby does not cite any authority imposing such a requirement. And we conclude Crosby does not demonstrate the district court abused its discretion by denying his request for reconsideration upon these grounds. *See AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 589, 245 P.3d 1190, 1197 (2010). (explaining appellate courts review a district court's decision to deny a motion for reconsideration for abuse of discretion).

being served with Crosby's and Davlyn and PFI's briefs in this appeal, neither Dylan nor Wyatt filed answering briefs. We construe Dylan and Wyatt's failure to file answering briefs as a confession of error. *See* NRAP 31(d)(2). Accordingly, we reverse the district court's dismissal of the complaint solely as to Dylan and Wyatt Rutterbrush and remand this matter for further proceedings.

Based on the foregoing, we

ORDER the judgment of the district court AFFIRMED IN PART, REVERSED IN PART, and REMAND this matter to the district court for proceedings consistent with this order.[3]

Bulla, C.J.

Gibbons, J.

Westbrook, J.

[3]To the extent Crosby asserts on appeal that this court should reverse the dismissal of his complaint as to Ashley Rosas, the record below indicates he moved to voluntarily dismiss Ashley Rosas, and he provides no cogent argument on appeal as to why that dismissal was improper. As a result, we need not consider this issue. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that appellate courts need not consider issues that are not supported by cogent argument).

Further, insofar as Crosby raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.

cc: Chief Judge, Eighth Judicial District Court
Hon. Cheryl B. Moss, Senior Judge
Hon. Robert E. Estes, Senior Judge
Nehme-Tomalka & Associates
Thorndal Armstrong /Las Vegas
Lavanz Crosby
Dylan Rutterbrush
Wyatt Rutterbrush
Eighth District Court Clerk