FILED
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ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARMIN VAN DAMME, Appellant, vs. NATIONAL DEFAULT SERVICING CORPORATION, Respondent.	No. 91398-COA

ORDER OF AFFIRMANCE

Armin Van Damme appeals from a district court order denying a NRCP 60(b) motion to set aside a decision in a foreclosure mediation matter and declaring him a vexatious litigant. Eighth Judicial District Court, Clark County; Hon. Jerry A. Wiese, Judge.

In 2003, Van Damme and his then-wife Geraldine purchased a residence in Las Vegas (the subject property). In 2004, the Van Dammes secured a $740,000 mortgage secured by a deed of trust to refinance the subject property. The Van Dammes subsequently defaulted on the mortgage. Since that initial default almost two decades ago, Van Damme has initiated multiple actions in several forums to stave off foreclosure on the subject property. In August 2022, Van Damme recorded a grant, bargain, and sale deed conveying ownership of the subject property to Geraldine with the Clark County Recorder.

On April 11, 2024, respondent National Default Servicing Corporation (NDSC) recorded a notice of default and election to sell under deed of trust with the Clark County Recorder. That notice was subsequently served

on Van Damme and Geraldine on April 19, 2024, and included a written notice regarding the Nevada Foreclosure Mediation Program. Pursuant to NRS 107.086(3), Van Damme had 30 days from the April 19, 2024, service date—i.e., until May 19, 2024—to petition the district court to participate in foreclosure mediation. On July 17, 2024, NDSC filed a foreclosure mediation certificate which stated Van Damme did not attend the foreclosure mediation conference and that foreclosure could proceed. On December 23, 2024, NDSC recorded a notice of trustee's sale which indicated the subject property would be sold at public auction in January 2025.

On December 30, 2024, Van Damme petitioned the district court for foreclosure mediation. The next day, Van Damme filed a motion for a temporary restraining order to halt the impending trustee sale. In the motion, Van Damme alleged, among other things, that a notice of default recorded in January 2008 was never rescinded and was therefore terminated under NRS 106.240, that a February 2008 loan modification he had entered into was never funded, and that NDSC executed an improper substitution of trustee in 2013. Van Damme also alleged that NDSC was not qualified to act as a trustee, that the firm representing NDSC had a conflict of interest, that NDSC lacked standing, that NDSC committed fraud, and that the beneficiary of the deed of trust improperly expunged a lis pendens he had recorded. A week later, Van Damme filed an "emergency motion to halt trustee sale" that was largely reiterative of his motion for a temporary restraining order. NDSC opposed Van Damme's motions and counter-moved the district court to dismiss the petition.

The district court thereafter entered an amended order denying

Van Damme's motions and dismissing the petition.[1] With respect to Van Damme's request for injunctive relief, the court concluded that such relief was "beyond the scope of the Foreclosure Mediation Rules" and that injunctive relief "must be sought through a separate civil action." The court also concluded that Van Damme did not meet the eligibility requirements of NRS 107.0865 and Foreclosure Mediation Rule 7 to participate in foreclosure mediation because he was not an owner-occupant of the subject property following the 2022 conveyance to Geraldine, and because his petition for foreclosure mediation was untimely filed. In light of these conclusions, the court dismissed Van Damme's petition in its entirety.

Van Damme subsequently filed several motions seeking reconsideration as well as other types of relief, including, inter alia, vacatur of the district court's order, declaratory and injunctive relief, sanctions against NDSC's counsel, referral to federal enforcement agencies, and a halt of the impending auction of the subject property. These motions were largely repetitive of each other and included multiple exhibits Van Damme included with his initial filings.

The district court subsequently held a hearing on Van Damme's motions. At that hearing, counsel for NDSC notified the district court that the subject property had sold. The court later entered a written order denying Van Damme's motions, in which it concluded that Van Damme had failed to demonstrate the court had made a clerical mistake, or a mistake arising from

[1]The original order entered by the district court erroneously included language ordering the issuance of a certificate of foreclosure; the amended order removed that language and left the remainder of the order intact.

oversight or omission which warranted reconsideration. The court also noted that, as in his prior filings, Van Damme requested relief beyond what the court could grant in a foreclosure mediation, and that in any event, "the relief sought by [ ] Van Damme is [m]oot because a foreclosure sale has seemingly already happened outside of the Foreclosure Mediation Program."

Van Damme continued to file motions with the district court, including motions seeking forms of relief that the court had previously concluded were outside the scope of relief available in foreclosure mediation. The court entered an order denying all these motions. The court noted that Van Damme had raised "no new substantive arguments" since it had ruled on his first motion for reconsideration, and warned Van Damme that should he "continue to file [r]equests based on the same allegations previously ruled on, this Court may issue a show cause order" requiring him "to explain why these filings are not being filed to delay hearings, or harass the judge, and explain why he should not be deemed a vexatious litigant." The court also noted that Van Damme continued to request unavailable relief, and that Van Damme was not eligible to participate in the foreclosure mediation program.

Van Damme subsequently filed motions seeking reconsideration or clarification of the district court's order and information concerning the deed of trust. Van Damme included multiple exhibits he had previously submitted to the district court and requested the same forms of relief the court had already declined to grant.

The district court thereafter entered an order denying those motions. The court reiterated its prior findings that Van Damme was not eligible to participate in the foreclosure mediation program. The court also found that Van Damme had not raised any new substantive arguments or

produced any new evidence, and that there was "no additional relief" it could grant to Van Damme. Further, the court warned Van Damme for the second time that should he continue to request unavailable relief or continue to file requests based on the same allegations previously ruled on, the court would issue an order to show cause requiring Van Damme to "explain why these filings are not being filed to delay hearings, or harass the court and opposing counsel, and explain why he should not be deemed a vexatious litigant, and subject to sanctions."

One day after the district court denied Van Damme's motion for reconsideration and motion to compel, Van Damme filed another motion for reconsideration in which he alleged that, among other things, the court violated his rights to due process by denying the motion to compel without conducting a hearing. Subsequently, Van Damme filed a supplemental motion seeking to present new evidence and seeking reconsideration. Van Damme presented many of the same arguments and exhibits he had presented in his prior filings, and requested forms of relief the court had previously deemed unavailable.

The district court subsequently entered an order denying this latest motion and supplement. As it had in its prior orders, the court noted it had already determined that Van Damme was not eligible to participate in the foreclosure mediation program, and that Van Damme had not presented any new substantive arguments or new evidence. The court concluded that it had "now ruled on [ ] Van Damme's Motions to Reconsider three times" and there was "no additional relief" it could grant him. The following day, Van Damme filed a motion seeking, among other things, relief under NRCP 60(b), which

reiterated several arguments he had presented in his earlier filings. Van Damme later filed a supplement to that motion.

The district court thereafter issued an order to show cause why Van Damme should not be declared a vexatious litigant and set a hearing concerning that issue. The order notified Van Damme that the hearing would consider the four factors set forth in *Jordan v. State ex rel. Dept. of Motor Vehicles*, 121 Nev. 44, 110 P.3d 30 (2005), and observed that Van Damme appeared to have "filed numerous rogue, fugitive, or unmeritorious documents" in the case, that the filings "share similar attributes, as despite prior warnings from this court, each request, including the three motions to reconsider, seems to request relief this [c]ourt cannot grant," and that the filings "appear to be for an improper purpose, such as to harass, vex, annoy, or increase [the] cost of litigation, but fail to assert meritorious grounds for relief." The order also warned Van Damme of the potential restrictions the court could impose on him should it deem him a vexatious litigant. The district court also entered an order denying Van Damme's recent filings.

Van Damme later filed a motion to vacate the district court's orders. Two days later, Van Damme filed an opposition to the court's order to show cause. In his opposition, Van Damme argued that his filings were not vexatious because they were "responsive to [NDSC's] fraudulent actions," and that the district court did not have subject matter jurisdiction over him as a "non-party" given that he had conveyed the subject property to Geraldine.

The district court held a hearing on the order to show cause. The court opened the hearing by identifying each pleading and paper Van Damme had filed in the case, noting that although a select few of Van Damme's filings were nonfrivolous, the rest were "one motion after another seeking the same

relief or arguing that [the court does not] have authority to do what [it] did," despite being told that he could seek relief via an appeal to the appellate courts. When presented with the opportunity at the hearing to address whether his filings were frivolous or harassing, Van Damme instead reiterated his underlying claims.

The district court subsequently entered a written order declaring Van Damme a vexatious litigant. The order identified 19 different filings Van Damme made in the case and concluded that an overwhelming majority of the filings were made without an objective good faith expectation of prevailing, and that several of those bad-faith filings "needlessly caused expense to the other side." The court then made substantive findings regarding the frivolous or harassing nature of Van Damme's actions. The court noted that Van Damme had filed "numerous lawsuits" relating to the subject property. The court also found that the "entire case record demonstrated repetitive and harassing activities" and that Van Damme's filings lacked "an arguable factual or legal basis." The court further found that Van Damme filed his motions with the intent to harass. The court also found that Van Damme's repetitive filings caused NDSC to retain counsel and incur legal fees. To curb further vexatious filings, the court ordered that Van Damme (1) could not submit any additional motions or documents in the case without prior approval of the presiding judge; and (2) could not initiate any new "foreclosure mediation cases" related to the subject property without prior review and approval of the chief judge of the district. The court added that its order did not preclude Van Damme from "opening a new District Court case seeking relief appropriate to the arguments he made regarding chain of title, quiet title, and other issues not appropriate

for the foreclosure mediation program." Finally, the court denied Van Damme's NRCP 60(b) motion. This appeal followed.

On appeal, Van Damme argues that the district court abused its discretion in declaring him a vexatious litigant because each of his filings "corresponded to issues reflected in the district court's own orders and records" and were therefore not frivolous or filed to harass the court or opposing counsel.[2] This court reviews an order declaring someone a vexatious litigant and setting restrictions on their ability to access the courts for an abuse of discretion. *Jordan*, 121 Nev. at 62, 110 P.3d at 44, *abrogated on other grounds by Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n.6, 181 P.3d 670, 672 n.6 (2008). Because vexatious litigant orders limit a litigant's right to access the courts, the orders must meet the four factors enumerated in *Jordan*: (1) the litigant must be provided reasonable notice and an opportunity to oppose the order; (2) the district court must create an adequate record for review, including an explanation of the reasons it issued the order; (3) the district court must find the filings were frivolous or harassing and not simply based on "a showing of litigiousness;" and (4) the order must be narrowly drawn. 121 Nev. at 60-61, 110 P.3d at 42-43.

Van Damme does not allege that he was deprived of reasonable notice and an opportunity to oppose the vexatious litigant designation, nor does

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[2]Although Van Damme also appealed from the district court's denial of his June 19 NRCP 60(b) motion, he does not present any cogent argument on appeal regarding reconsideration. We therefore conclude Van Damme has not demonstrated the district court abused its discretion by denying his request for reconsideration. *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).").

he allege that the district court either failed to create an adequate record for review or failed to narrowly tailor the restrictions the district court placed on his ability to access the courts. Instead, Van Damme singularly focuses on the third prong of *Jordan*, which requires the district court to make "substantive findings as to the frivolous or harassing nature of the litigant's actions." *Id.* at 61, 110 P.3d at 43 (quoting *DeLong v. Hennessey*, 912 F.2d 1144, 1148 (9th Cir. 1990)).

The United States Court of Appeals for the Ninth Circuit has adopted a five-factor standard which provides a "helpful framework" for determining whether a plaintiff's litigation has been frivolous or harassing. *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1058 (9th Cir. 2007). That standard includes: (1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., whether the litigant had an objective good faith expectation of prevailing; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts; and (5) whether other sanctions would be adequate to protect the courts and other parties. *Id.* (quoting *Safir v. U.S. Lines, Inc.,* 792 F.2d 19, 24 (2d Cir.1986)).

The district court expressly employed this standard in assessing whether Van Damme's filings were frivolous or harassing. The court first noted that Van Damme had "filed numerous lawsuits relating to" the subject property. The record supports the court's finding on this factor. As noted by NDSC in its motion to dismiss and several of its responsive filings, Van Damme initiated at least two lawsuits related to the subject property which, following removal to the United States District Court for the District of Nevada, were

resolved against him. *See Van Damme v. U.S. Bank, N.A.*, Case No. 2:24-cv-01287-JAD-BNW, 2024 WL 4892599 (D. Nev. Nov. 26, 2024) (amended order granting defendant's motion to dismiss); *Van Damme v. JP Morgan Chase Bank, Inc. N.A.*, Case No. 2:15-cv-1951-GMN-PAL, 2018 WL 1512599 (D. Nev. Mar. 26, 2018) (order granting defendants' motions to dismiss). NDSC also provided documentation showing Van Damme initiated a separate lawsuit against it on December 16, 2024, which had likewise been removed to the federal district court. In addition, Van Damme filed for bankruptcy four times in two different federal bankruptcy courts in an apparent effort to stave off foreclosure of the subject property. *See*, *e.g.*, *In re Damme*, No. 25-10329-GS, 2025 WL 825282, at *8 (Bankr. D. Nev. Mar. 13, 2025) (discussing Van Damme's multiple bankruptcies), *aff'd sub nom. In re Van Damme*, No. BAP NV-25-1052-NBC, 2025 WL 3191701 (B.A.P. 9th Cir. Nov. 14, 2025).

The district court also concluded that the "entire case record demonstrates repetitive and harassing activities," including improper motion practice and multiple motions for reconsideration that lacked "an arguable factual or legal basis." Next, the court considered Van Damme's motives in pursuing litigation and concluded that Van Damme filed his motions with the intent to harass, pointing to the fact that Van Damme continued to file motions "despite consistently not raising new arguments" and despite multiple warnings from the district court.

The district court then determined that Van Damme's pro se status did not "absolve him of the responsibility to cogently explain to the Court why he believes he is entitled to relief." The court next determined that Van Damme had caused NDSC to incur needless expenses because his filings caused NDSC to retain legal counsel and incur legal fees to defend against his

"frivolous and harassing claims," and also caused unnecessary costs and burden on the court. Finally, the court determined that imposing sanctions would promote the efficient administration of justice.

The district court's aforementioned findings are supported by the record before this court, and Van Damme does not demonstrate that those findings are clearly erroneous. *See Ogawa v. Ogawa*, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009) ("The district court's factual findings, however, are given deference and will be upheld if not clearly erroneous and if supported by substantial evidence."). In light of the foregoing, we conclude Van Damme has not demonstrated the district court abused its discretion in declaring him a vexatious litigant.[3] Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Bulla, C.J.

Gibbons, J.

Westbrook, J.

[3]To the extent Van Damme raises additional issues in his appellate briefs that are not specifically addressed in this order, we have considered the same and conclude that they are either not germane to the issues on appeal or need not be reached given the disposition of this appeal. We also deny NDSC's request to strike Van Damme's opening brief.

cc: Hon. Jerry A. Wiese, District Judge
Tiffany & Bosco, P.A./Las Vegas
Armin Van Damme
Eighth District Court Clerk