

IN THE SUPREME COURT OF THE STATE OF NEVADA

HARVEY ALONZO BOLIEN, SR.,  
Appellant,  
vs.  
NEVADA TRUST CO.; JEAN SELLER  
TRUST DTD; WEI-HWA BETTY CHOU  
BENEFIT PENSION PLAN; AND  
PRUDENTIAL SOUTHWEST REALTY,  
Respondents.

No. 41612

**FILED**

DEC 05 2005

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

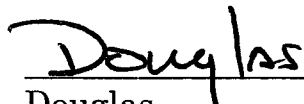
This is a proper person appeal from a district court order granting summary judgment in a breach of contract and conversion action. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

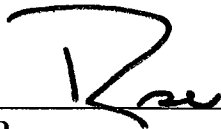
Appellant claims that the district court erred in ruling in favor of respondents on an unopposed countermotion for summary judgment, because of an alleged exclusion of his family members, and his own absence, from the summary judgment hearing while he was incarcerated at the Lovelock Correctional Facility. According to appellant, the district court knew that he was incarcerated and should have issued a transport order to enable him to attend the hearing. He also claims that the district court's order was improperly prepared by respondents' counsel and was merely stamped, not signed, by the judge.

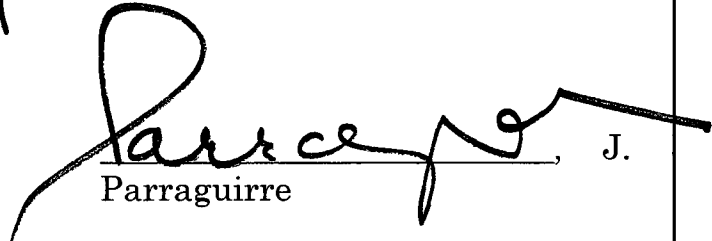
We conclude that appellant's claims are meritless. Appellant filed a written motion for summary judgment, and yet he failed to file a written opposition to respondents' countermotion for summary judgment. Appellant has also failed to show that he even requested a transport order to attend the summary judgment hearing. Additionally, the court minutes demonstrate that the case was reopened when appellant's wife and son appeared late at the summary judgment hearing, and so they ostensibly had the opportunity to object at that time.

Even if appellant had filed a written opposition, our review of the record shows that his claims are not well-founded. Despite conflicts in the evidence as to whether or not Suzanne Robbins had threatened Lela Bolien (“Lela”) with prosecution for trespass, the undisputed evidence is as follows: Lela and appellant were in default under a note secured by a deed of trust on the foreclosed property since January 1999; the Boliens had 7 months to remove their personal property while foreclosure was pending; the Boliens failed to remove all of their personal property before the trustee’s sale occurred on August 2, 1999, so approximately 27 empty 55-gallon barrels, 6 inches of soil from under the barrels and 43 inoperable vehicles were removed from the premises between November 1, 1999, and January 11, 2000, at a cost of \$1,790 to respondent Nevada Trust; the foreclosed property had been vacated and no formal eviction proceedings were necessary; and Lela did not meet with Robbins until after the sale had been completed, when Lela and appellant no longer had any right to the foreclosed property. Accordingly, we affirm the district court’s order granting respondents’ counter-motion for summary judgment and dismissing the underlying case with prejudice.<sup>1</sup>

It is so ORDERED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Parraguirre

<sup>1</sup>See Wood v. Safeway, Inc., 121 Nev. \_\_\_, \_\_\_ P.3d \_\_\_ (2005) (clarifying summary judgment standard of review).

cc: Hon. Michelle Leavitt, District Judge  
Harvey Alonzo Bolien Sr.  
Hutchison & Steffen, Ltd.  
Kolesar & Leatham, Chtd.  
Clark County Clerk