

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD J. GOHEEN,
Appellant,
vs.
JACQUELINE J. GOHEEN,
Respondent.

No. 41677

FILED

APR 08 2004

ORDER OF REVERSAL AND REMAND

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY Richard
CHIEF DEPUTY CLERK

This is a proper person appeal from a district court order denying appellant's motion to set aside a divorce decree under NRCP 60(b) on the basis that the motion was untimely.¹

In Sullivan v. District Court,² we delineated the duties of the district court clerk in handling documents for which a filing fee was due, but not paid at the time the documents were submitted for filing. The clerk has the ministerial duty to file a motion for leave to proceed in forma pauperis, and to receive any documents submitted with the motion.³ The received documents must be stamped as such, including the date.⁴ The district judge must enter a written order ruling on the motion.⁵ If it is granted, then the received documents must be filed; if it is denied, then

¹We direct the clerk to file appellant's proper person opening brief, received on November 3, 2003, and respondent's answering brief, received on November 25, 2003.

²111 Nev. 1367, 904 P.2d 1039 (1995).

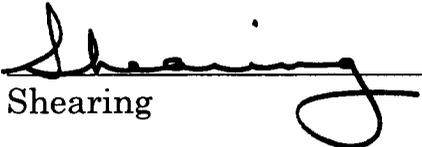
³Id. at 1369, 904 P.2d at 1040.

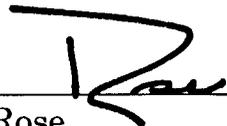
⁴Id. at 1371, 904 P.2d at 1042.

⁵Id.

the clerk must nevertheless keep copies of all received documents for the district court record.⁶ Here, the six-month period in which a motion under NRCP 60(b) could be filed ended on March 11, 2003. Appellant first submitted his motion in February 2003, well in advance of the deadline. Accordingly, the district court erred in denying the motion as untimely. We reverse the district court's order denying appellant's NRCP 60(b) motion, and remand this matter for further proceedings consistent with this order.

It is so ORDERED.


_____, C.J.
Shearing


_____, J.
Rose


_____, J.
Maupin

cc: Hon. William O. Voy, District Judge, Family Court Division
Richard J. Goheen
Hoskin & Associates
Clark County Clerk

⁶Id.