

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD OUSLEY, A MARRIED MAN,  
D/B/A RA ELECTRIC, A SOLE  
PROPRIETORSHIP,

Appellant,

vs.


YACK CONSTRUCTION, INC., A UTAH  
CORPORATION; AND AMERICAN  
CASUALTY COMPANY OF READING  
PENNSYLVANIA, A PENNSYLVANIA  
SURETY COMPANY,

Respondents.

No. 42081

**FILED**

FEB 21 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying appellant's motion to set aside a judgment under NRCPC 60(b).<sup>1</sup> Eighth Judicial District Court, Clark County; David Wall, Judge.

This matter involves a construction contract dispute resolved in binding arbitration and reduced to a district court judgment. Appellant argues that the "district court erred because the judgment was not on the merits of the case, but basically by default, due to incompetent counsel."

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<sup>1</sup>Although appellant also purports to appeal from the district court's order denying a stay, we note that an order denying a stay is not appealable. Brunzell Constr. v. Harrah's Club, 81 Nev. 414, 419, 404 P.2d 902, 905 (1965).

Appellant further states that although he was represented by counsel George Carter<sup>2</sup> during the entire arbitration, Carter did not provide the arbitrator with an arbitration brief or any exhibits prior to the arbitration hearing. Moreover, appellant states that Carter failed to provide any follow-up documentation in the fourteen-day extension time allowed by the arbitrator. As a result, appellant argues, his case was not tried on the merits and, therefore, the judgment against him should be set aside.

We review a district court's denial of NRCP 60(b) relief for an abuse of discretion.<sup>3</sup> After carefully reviewing the record, we conclude that the district court did not abuse its discretion when it denied appellant's motion to set aside the judgment under NRCP 60(b).

"It is a general rule that the negligence of an attorney is imputable to his client, and that the latter cannot be relieved from a judgment taken against him, in consequence of the neglect, carelessness, forgetfulness, or inattention of the former."<sup>4</sup> While appellant is dissatisfied with Carter's representation at the arbitration hearing,<sup>5</sup> a client who voluntarily chooses an attorney cannot avoid the consequences,

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<sup>2</sup>The record on appeal indicates that at different times during this litigation and appeal, appellant was either represented by counsel George Carter or Cuthbert Mack, or he represented himself.

<sup>3</sup>Heard v. Fisher's & Cobb Sales, 88 Nev. 566, 568, 502 P.2d 104, 105 (1972).

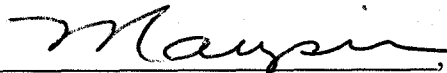
<sup>4</sup>Guardia v. Guardia, 48 Nev. 230, 233-34, 229 P. 386, 387 (1924).

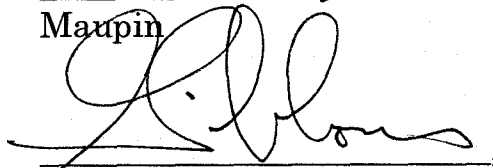
<sup>5</sup>We note that the Nevada State Bar invites the public to report complaints and grievances regarding an attorney's alleged misconduct.

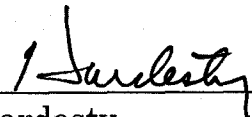
acts, or omissions committed by his agent, because he is deemed bound by the acts of his agent.<sup>6</sup>

Thus, appellant's argument of inadequate representation does not satisfy the standards of NRCP 60(b). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. David Wall, District Judge  
Richard Ousley  
Ghanem & Sullivan  
Clark County Clerk

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<sup>6</sup>Moore v. Cherry, 90 Nev. 390, 395, 528 P.2d 1018, 1022 (1974).