

IN THE SUPREME COURT OF THE STATE OF NEVADA

FLONNIE L. PHILLIPS,
Appellant,
vs.
JIMI TELFORD AND NANCY E.
COMBS,
Respondents.

No. 42372

FILED

MAR 16 2005

A. Corvillo
MARCELO G. OLIVERA
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a default judgment. Eighth Judicial District Court, Clark County; Michael L. Douglas, Judge.

Appellant Flonnie Phillips owns property near Boulder City, Nevada, known as the Sungold Mine. On April 5, 2002, she entered into a ten-year mineral lease with respondents Jimi Telford and Nancy Combs, which granted respondents the right to mine decorative rock. Respondents began mining activities shortly thereafter.

On June 16, 2003, respondents filed a district court complaint against Phillips for breach of the lease. Respondents sought compensatory damages, punitive damages, and injunctive relief. After respondents served Phillips with the summons and complaint, Phillips failed to answer. Attorney John T. Kelleher appeared on Phillips' behalf at a June 30, 2003 hearing.

On July 18, 2003, respondents filed a notice of intent to enter default. On August 5, 2003, the district court clerk entered default against Phillips. Subsequently, respondents moved for the entry of a default judgment against Phillips. Respondents personally served Phillips with the motion on October 2, 2003. Consequently, Phillips appeared at

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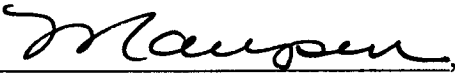
the district court's default judgment hearing on October 6, 2003, but did not answer or otherwise respond to respondents' complaint. On October 10, 2003, the district court entered default judgment against Phillips.

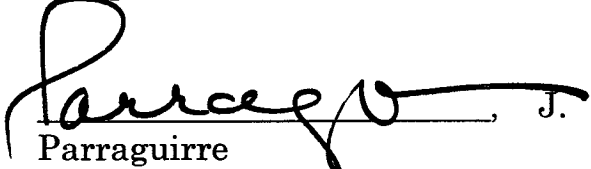
NRCP 55(a) allows a party to seek default when the other party has not answered or otherwise responded to the complaint. Once default has been entered, the party seeking default can request a default judgment.¹ A party against whom default has been entered can seek to set aside a default judgment under NRCP 60.²

Respondents properly served Phillips with the summons and complaint. In addition, because Phillips made an appearance in the action, respondents personally served notice of the default judgment hearing on Phillips four days before the hearing.³ Although Phillips appeared at the hearing, she never answered the complaint. Accordingly, the district court did not err by entering a default judgment, and we affirm the district court's judgment.

It is so ORDERED.


_____, C.J.
Becker


_____, J.
Maupin


_____, J.
Parraguirre

¹NRCP 55(b)(2).

²NRCP 55(c).

³NRCP 55(b)(2).

cc: Eighth Judicial District Court Dept. 11
Gordon & Silver, Ltd.
Flonnie L. Phillips
Clark County Clerk