

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD J. HARDENBROOK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57951

FILED

JUL 27 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Malone
DEPUTY CLERK

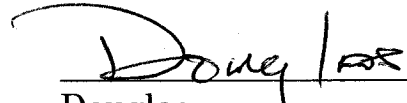
ORDER OF REVERSAL AND REMAND

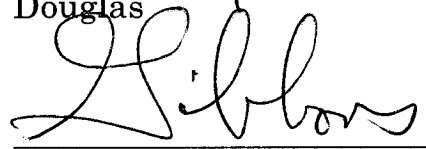
This is a proper person appeal from a district court order dismissing appellant's complaint based on claim preclusion in a declaratory relief action. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

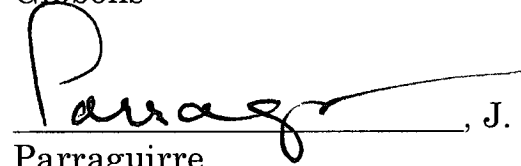
This court reviews de novo an order granting an NRCP 12(b)(5) motion to dismiss, accepting all factual allegations in the complaint as true, and drawing all inferences in the plaintiff's favor. Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). To determine the preclusive effect of a federal decision, Nevada courts apply federal law. Bower v. Harrah's Laughlin, 125 Nev. 470, 482, 215 P.3d 709, 718 (2009); Clark v. Columbia/HCA Info. Servs., 117 Nev. 468, 481, 25 P.3d 215, 224 (2001). In this case, the district court applied state law in determining that appellant's claims were barred under claim preclusion principles based on a prior order in a federal case. The district court further did not consider the preclusive effect of the prior federal order where respondent was not a defendant in the federal action, see Taylor v. Sturgell, 553 U.S. 880 (2008), or whether the state defendants in the federal action were dismissed for lack of jurisdiction. As

the district court should have applied federal law in determining whether appellant's claims should be dismissed, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

_____, J.
Douglas

_____, J.
Gibbons

_____, J.
Parraguirre

cc: Hon. Patrick Flanagan, District Judge
Richard J. Hardenbrook
Attorney General/Reno
Washoe District Court Clerk