

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD HIGHTOWER,
Appellant,
vs.
JOHN EDGCOMB, M.D.; AND JORGE
SALLABERRY, M.D.,
Respondents.

No. 58369

FILED

JAN 17 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

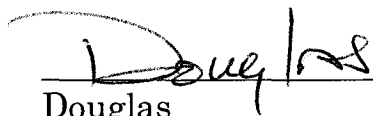
This is a proper person appeal from a district court order dismissing appellant's complaint in a medical malpractice action. First Judicial District Court, Carson City; James Todd Russell, Judge.


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). We have reviewed the record and considered appellant's civil proper person appeal statement, and we conclude that dismissal was appropriate.

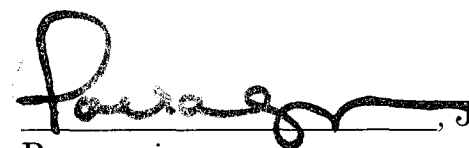
The district court properly dismissed with prejudice appellant's complaint alleging professional negligence, as the complaint was filed without the necessary medical affidavit, and was therefore void ab initio. NRS 41A.071; Washoe Med. Ctr. v. Dist. Ct., 122 Nev. 1298, 1304, 148 P.3d 790, 794 (2006). Appellant's argument that NRS 41A.071 does not apply to his claims is without merit, as a medical affidavit is

required to be attached to a complaint alleging professional negligence to support the complaint at the time of filing.¹ Fierle v. Perez, 125 Nev. ___, ___, 219 P.3d 906, 912 (2009). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. James Todd Russell, District Judge
Richard Hightower
Lemons, Grundy & Eisenberg
Carson City Clerk

¹As the failure to attach an expert affidavit is dispositive, we do not address the statute of limitations issue, included in the district court's order and appellant's proper person appeal statement, in resolving this matter.