

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN ELVIN TURNER,  
Appellant,  
vs.  
THE STATE OF NEVADA; NDOC;  
GREG COX; D. W. NEVEN; SCTO  
HENDLEY; A. W. LEAVITT; HDSP;  
AND BOARD OF COMMISSIONS,  
Respondents.

No. 72634

**FILED**

DEC 18 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

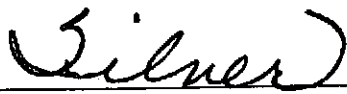
John Elvin Turner appeals from a district court order dismissing a civil rights complaint. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

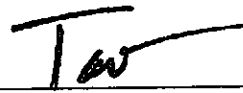
Turner filed a complaint against the State and several State employees in October of 2016. The district court sua sponte dismissed the case pursuant to NRCP 4(i) in March of 2017, as no proof of service was filed for any of the defendants. This appeal followed.

NRCP 4(i) provides that “[i]f a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed as to that defendant without prejudice upon the court’s own initiative *with notice to such party*” unless the party required to effectuate service files a motion to enlarge the time for service and shows good cause for the failure to timely serve. (Emphasis added). As detailed in the rule, a district court can sua sponte dismiss a case for failure to effect proper service in line with NRCP 4(i), but the court must provide the plaintiff with notice that it intends to dismiss the matter.

And here, as Turner points out,<sup>1</sup> the district court failed to provide him with the required notice that it intended to dismiss this matter on service grounds prior to the entry of the order of dismissal. We therefore conclude that the dismissal of Turner's case under these circumstance was an abuse of discretion. *Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 595, 245 P.3d 1198, 1200 (2010). Accordingly, we

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

  
Silver, C.J.

  
Tao, J.

  
Gibbons, J.

cc: Hon. Ronald J. Israel, District Judge  
John Elvin Turner  
Attorney General/Carson City  
Attorney General/Las Vegas  
Eighth District Court Clerk

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<sup>1</sup>Although styled as a "motion for relief," Turner's October 9, 2017, filing actually presents additional arguments in support of his appeal. We have considered the arguments contained therein as part of his appeal and thus, no separate action is necessary as to this document.