

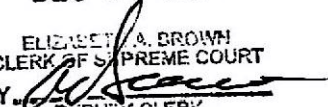
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FRANK LARA, AN INDIVIDUAL,
Appellant,
vs.
MATTHEW OGHIGIAN, AN
INDIVIDUAL; MICHAEL OGHIGIAN,
AN INDIVIDUAL; MARCUS
OGHIGIAN, AN INDIVIDUAL; AND
LAS VEGAS HOME BUYERS, A
NEVADA CORPORATION,
Respondents.

No. 80140-COA

FILED

DEC 04 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Frank Lara appeals from a district court order denying a motion to set aside a default judgment under NRCP 60(b)(2) and (3) in a tort and contract action. Eighth Judicial District Court, Clark County; J. Charles Thompson, Senior Judge.

In the underlying proceeding, respondents Matthew Oghigian, Michael Oghigian, Marcus Oghigian, and Las Vegas Home Buyers (referred to collectively herein as the Oghigians) obtained a default judgment against Lara. Lara later moved to set aside the default judgment under NRCP 60(b)(2) and (3), arguing that service of process was insufficient because the Oghigians delivered the summons and complaint to a third-party, as opposed to him personally, at a commercial address. The Oghigians opposed that motion, which the district court subsequently denied finding, among other things, that there was no evidence to show that the third-party was not Lara's authorized agent. This appeal followed.

As he did below, Lara argues on appeal that, because the summons and complaint were delivered to a commercial address rather

than his usual place of abode, they had to be received by him personally for service of process to be proper. But NRCP 4(d)(6)¹ permits service of process upon individuals by way of their authorized agents without any limitation as to the location where service may be effected. And Lara does not challenge the district court's determination that there was no evidence to show that the third-party who received the summons and complaint was not his authorized agent. Thus, Lara waived any challenge to that determination, which rejected the premise underlying his motion for relief under NRCP 60(b)(2) and (3)—that service of process was deficient.² See *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that arguments not raised on appeal are deemed waived). Consequently, he failed to demonstrate that the district court abused its discretion by denying that motion, see *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 656, 428 P.3d 255, 257 (2018) (providing that the district


¹NRCP 4 was amended twice during the underlying proceeding. For clarity, the citation in the text is to the version of NRCP 4 that went into effect on January 1, 2005, which was the version in effect when the Oghigians effected service of process.

²Lara also argues that the district court should have set aside the default judgment because his name was set forth incorrectly in the caption of the Oghigians' complaint. But nothing in the record before this court indicates that Lara raised this argument below, and as a result, we conclude that he waived it on appeal. See *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal."); see also *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (explaining that it is appellant's burden to ensure that a proper appellate record is prepared and that, if the appellant fails to do so, "we necessarily presume that [any] missing [documents] support[] the district court's decision").

court's resolution of an NRCP 60(b) motion will not be disturbed absent an abuse of discretion), and we therefore

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Hon. J. Charles Thompson, Senior Judge
Frank Lara
Marquis Aurbach Coffing
Eighth District Court Clerk

³In connection with his motion for relief under NRCP 60(b)(2) and (3), Lara also presented argument below with respect to the default judgment that was entered against D.F. Lara Construction. Insofar as Lara designated D.F. Lara Construction as a party to this appeal in his notice of appeal and is now seeking relief as to that entity, we note that the designation fails to confer jurisdiction on this court since pro se litigants cannot represent corporations. *See Sunde v. Contel of Cal.*, 112 Nev. 541, 542, 915 P.2d 298, 299 (1996) (“Non-lawyers generally may not represent another person or an entity in a court of law.”); *Guerin v. Guerin*, 116 Nev. 210, 214, 993 P.2d 1256, 1258 (2000) (concluding that the court lacked jurisdiction to hear an appeal brought on behalf of a trust by a pro se litigant); *see also* EDCR 7.42(b) (“A corporation may not appear in proper person.”).