

IN THE SUPREME COURT OF THE STATE OF NEVADA

BENNY RAY DIXON,
Appellant,
vs.
CHESTER KAFCHENSKI,
Respondent.

No. 37737

FILED

SEP 20 2002

ORDER OF AFFIRMANCE

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK


This is a proper person appeal from a district court order dismissing appellant's civil complaint against his former deputy public defender.¹ The complaint alleges breach of duty and contract, gross negligence and professional malpractice, but is essentially a legal malpractice claim. We have reviewed the record, and we conclude that dismissal was appropriate. First, appellant was not entitled to entry of a default, because the deputy public defender filed his motion to dismiss within the forty-five day period allowed by NRCP 12(a)(3) for an officer of a political subdivision of the state. Second, a public defender and his deputies cannot be sued for malpractice arising out of discretionary decisions that they make while carrying out their official duties, because NRS 41.032(2) grants public officers immunity from such suits and NRS 41.0307(4)(b) defines the terms "public officer" and "officer" to include a public defender and any deputy or assistant attorney of a public defender.²

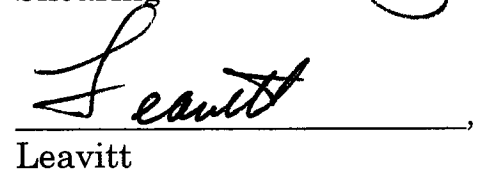
¹Although appellant was not granted leave to file papers in proper person, see NRAP 46(b), we have considered all documents received from him.


²Morgano v. Smith, 110 Nev. 1025, 1027-28, 879 P.2d 735, 736-37 (1994); Ramirez v. Clark Co. Public Defender, 105 Nev. 219, 773 P.2d 343 (1989).

Although the district court erroneously applied the pleading standard that governs malpractice suits against privately hired criminal defense attorneys,³ it reached the right result.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Shearing

 J.
Leavitt

 J.
Becker

cc: Hon. Connie J. Steinheimer, District Judge
Benny Ray Dixon
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

³Morgano, 110 Nev. at 1028-30, 879 P.2d at 737-38.

⁴Id. at 1027-28, 879 P.2d at 736-37.