

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHONNIE HAMLETT,
Appellant,
vs.
GUILD MORTGAGE COMPANY;
NATIONAL DEFAULT SERVICING
CORPORATION; AND
BRECKENRIDGE PROPERTY FUND
2016, LLC,
Respondents.

No. 81530-COA

FILED

DEC 20 2021

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

*ORDER AFFIRMING IN PART,
REVERSING IN PART AND REMANDING*

Shonnie Hamlett appeals from a district court order vacating a stay and denying a motion for a preliminary injunction in a real property matter. Eighth Judicial District Court, Clark County; Kerry Louise Earley, Judge.

Following the sale of Hamlett's home by way of foreclosure to respondent Breckenridge Property Fund 2016, LLC, Breckenridge initiated unlawful-detainer proceedings in justice court to evict Hamlett from the property. Hamlett then initiated the underlying action in district court seeking, among other things, to void the foreclosure sale and quiet title to the property in herself, and she filed a motion seeking a preliminary injunction that would have allowed her to remain in possession of the property pending final resolution of the title issues. The justice court ultimately granted a temporary writ of restitution to oust Hamlett from the property pending final resolution of the eviction proceedings, and the district court in this matter denied Hamlett's motion for a preliminary injunction on grounds that she had failed to prove that she served it.

Hamlett subsequently filed another motion seeking a preliminary injunction to regain possession of the property, and the district court issued an order referencing that motion, entitled “Order Regarding Emergency Request for Preliminary Injunction,” but not specifically ruling on the request. Instead, the district court concluded sua sponte that Hamlett was entitled to the protection of various eviction moratoria issued by federal and state authorities in connection with the ongoing COVID-19 pandemic. On that ground, the district court—mistakenly believing that Hamlett had not yet been removed from the property—stayed the underlying case and the ongoing eviction proceedings. Breckenridge then sought reconsideration of the district court’s order, pointing out that Hamlett had already been removed from the property and that the eviction moratoria did not apply to the ongoing eviction proceedings, which were initiated prior to the dates on which those directives went into effect. The district court agreed with Breckenridge and issued an order vacating the stay, but it did not expressly address Hamlett’s request for a preliminary injunction. This appeal followed.

After Hamlett filed a motion seeking emergency relief in the supreme court, the appeal was transferred to this court, and we ultimately entered an order denying Hamlett’s motion. *Hamlett v. Guild Mortg. Co.*, No. 81530-COA (Nev. Ct. App. Sep. 11, 2020) (Order Denying Motion for Injunction, Directing Transmission of Record, and Regarding Pro Bono Counsel). In the order, we concluded we had jurisdiction over the appeal under NRAP 3A(b)(3), as the district court’s order vacating the stay essentially constituted a denial of Hamlett’s request for a preliminary

injunction.¹ *Id.* Considering Hamlett's arguments on appeal, we affirm the district court's order in part, reverse it in part, and remand for further proceedings.

We review a district court order denying a preliminary injunction for an abuse of discretion, but we give no deference to the application of an erroneous legal standard or any other error of law. *Univ. & Cmty. Coll. Sys. of Nev. v. Nevadans for Sound Gov't*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004). Before the district court, the proponent of a preliminary injunction "must show (1) a likelihood of success on the merits; and (2) a reasonable probability that the non-moving party's conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is an inadequate remedy." *Id.* (internal quotation marks omitted). And in considering whether to grant a preliminary injunction, the district

¹Breckenridge has filed an answering brief in which it argues that we lack jurisdiction, as it contends the district court's order did not actually rule on Hamlett's request for a preliminary injunction and therefore does not constitute "[a]n order granting or refusing to grant an injunction" under NRAP 3A(b)(3). To the extent Breckenridge contends that our previous conclusion on this point was so clearly erroneous as to warrant reconsideration, we disagree. The order challenged on appeal, although it does not specifically address Hamlett's request for a preliminary injunction, can fairly be read as foreclosing relief on that point. In the order, in light of its decision to vacate the stay, the district court proceeded to set the respondents' pending motion to dismiss Hamlett's complaint for a hearing. Presumably, if the district court believed Hamlett's request for a preliminary injunction remained pending and intended to rule separately on it, the court likewise would have set that matter for a hearing. See NRCP 65(a)(2) (contemplating the holding of a "hearing on a motion for a preliminary injunction"). Thus, we construe the district court's silence on this point as an appealable denial of Hamlett's request. See *Bd. of Gallery of History, Inc. v. Datecs Corp.*, 116 Nev. 286, 289, 994 P.2d 1149, 1150 (2000) ("The absence of a ruling awarding the requested [relief] constitutes a denial of the [request].").

court should consider the potential hardships to the parties and others, as well as the public interest. *Id.*

As a preliminary matter, we note that Hamlett concedes she was ineligible for protection under the eviction moratoria originally relied upon by the district court, and we therefore affirm the district court's order insofar as it vacated its prior stay of proceedings. However, Hamlett essentially argues in part that the district court erred or abused its discretion by failing to properly address the request for a preliminary injunction, and on this point, we agree. Rather than applying the standard set forth above for determining whether to grant a preliminary injunction, the district court denied Hamlett's request with no explanation. It has therefore left us with nothing to review concerning its decision, and we decline to apply the preliminary-injunction standard in the first instance. *See 9352 Cranesbill Tr. v. Wells Fargo Bank, N.A.*, 136 Nev. 76, 82, 459 P.3d 227, 232 (2020) (noting that the appellate courts "will not address issues that the district court did not directly resolve"). Accordingly, the district court abused its discretion in denying Hamlett's request, *see Nevadans for Sound Gov't*, 120 Nev. at 721, 100 P.3d at 187; *cf. Venetian Casino Resort, LLC v. Eighth Judicial Dist. Court*, 136 Nev. 221, 226, 467 P.3d 1, 6 (Ct. App. 2020) (concluding in the context of a motion for a protective order that "[a] district court abuses its discretion when it makes neither factual findings nor legal arguments to support its decision" (alteration and internal quotation marks omitted)), and we reverse that portion of the order and remand for further proceedings consistent with this order.

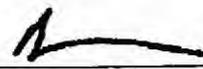
In short, we affirm the district court's order insofar as it vacated the prior stay of proceedings, but we reverse the order insofar as it denied

Hamlett's request for a preliminary injunction, and we remand for the district court to fully address that request in the first instance.

It is so ORDERED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 4
Shonnie Hamlett
Tiffany & Bosco, P.A.\Las Vegas
Wedgewood, LLC
Hutchison & Steffen, LLC/Las Vegas
Wright, Finlay & Zak, LLP/Las Vegas
Eighth District Court Clerk

²In light of our disposition, we need not reach any of the other arguments Hamlett raises on appeal.