

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,

Appellant,

vs.

C/O SMITH; RENEE BAKER;

CASEWORKER LEFLUER; C. POTTER;

P. DELPORTO; J. BORROWMAN; D.

BAZE; AND TARA CARPENTER,

Respondents.

No. 85245-COA

**FILED**

MAR 17 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

Justin Odell Langford appeals from an order of the district court denying a “motion for relief from final judgment pursuant to NRCP 60” filed on May 13, 2022. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.<sup>1</sup>

Langford contends that the district court erred by denying his motion for relief from final judgment. In his motion, Langford argued that respondents had committed fraud by erroneously informing the district court that he had failed to file a case conference report as required under NRCP 16.1(e)(2) when the 240-day deadline for filing the report had not lapsed for all defendants.<sup>2</sup> On appeal, Langford contends the district court

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<sup>1</sup>We direct the clerk of this court to amend the caption of this court’s docket to conform with the caption on this order.

<sup>2</sup>Langford also argued that respondents had committed fraud by failing to inform the court that they had a duty to arrange an early case conference pursuant to NRCP 16.1(e)(1) and that they had failed to do so. However, in his reply to the State’s opposition to his motion, Langford

erroneously relied on the law-of-the-case doctrine and/or waiver principles in denying his motion.

“Normally, for the law-of-the-case doctrine to apply, the appellate court must actually address and decide the issue explicitly or by necessary implication.” *Recontrust Co. v. Zhang*, 130 Nev. 1, 8, 317 P.3d 814, 818 (2014) (internal quotation marks omitted). “Subjects an appellate court does not discuss, because the parties did not raise them, do not become the law of the case by default.” *Id.* (quotation marks omitted). Although we review an order denying a motion to set aside a judgment under NRCP 60(b) for an abuse of discretion, *Vargas v. J Morales Inc.*, 138 Nev., Adv. Op. 38, 510 P.3d 777, 780 (2022), we review questions of law de novo, including the applicability of the law-of-the-case doctrine, *Estate of Adams v. Fallini*, 132 Nev. 814, 818, 386 P.3d 621, 624 (2016).

In denying Langford’s motion, the district court appeared to determine that Langford’s contention of fraud was barred by the law-of-the-case doctrine because this court had previously affirmed the dismissal of Langford’s complaint. However, in affirming the dismissal of Langford’s complaint, this court did not discuss or address Langford’s contention of fraud. *See Langford v. Smith*, No. 83016-COA, 2022 WL 354487 (Nev. Ct. App. Feb. 4, 2022) (Order Affirming in Part, Reversing in Part and Remanding). Therefore, Langford’s contention of fraud was not barred by the law-of-the-case doctrine, and we conclude the district court abused its discretion by denying the motion on this ground.

The district court also appeared to rely on this court’s order affirming the dismissal of Langford’s complaint in concluding that Langford

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conceded that he had misstated NRCP 16.1(e)(1), and Langford does not contend on appeal that the district court erred by rejecting this argument.

had waived his contention of fraud. In a countermotion to dismiss, respondents argued dismissal of the complaint was warranted on two grounds, one of which was that Langford failed to comply with the requirements of NRCP 16.1(e)(2). The district court granted the countermotion to dismiss. On appeal, this court held that Langford waived any issues regarding his alleged failure to comply with NRCP 16.1(e)(2) because he failed to argue the point and, as a result, this court affirmed the dismissal of the complaint. *See id.* at \*1. In so affirming, this court held only that Langford had waived his right to have any challenge to the dismissal of his complaint considered *by this court on appeal* because he failed to raise the issue in his opening brief on appeal. *See id.* This court did not conclude Langford had waived his contention of fraud insofar as it was before the district court, and we conclude the district court abused its discretion by denying the motion on this ground.

Because the district court denied Langford's motion on law-of-the-case and/or waiver grounds, the district court did not consider the merits of Langford's request for relief under NRCP 60(b)(3), whether Langford's request was timely, or whether the alleged fraud rose to the level of extrinsic fraud on the court such that the time limitations imposed under NRCP 60(c) were excused. Therefore, we reverse the district court's order and remand this matter for further proceedings on Langford's motion for relief from final judgment. *See Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981) (concluding that "an appellate court is not an appropriate forum in which to resolve disputed questions of fact"). In addressing Langford's motion on remand, the district court shall issue explicit, detailed findings of fact and conclusions of law, preferably in writing, to support its decision. *Cf. McKnight Family, L.L.P.*

*v. Adept Mgmt. Servs., Inc.*, 129 Nev. 610, 617, 310 P.3d 555, 560 (2013) (reversing a district court order setting aside a default judgment based on the court's failure to make necessary findings), *abrogated on other grounds by Saticoy Bay, LLC, Series 9720 Hitching Rail v. Peccole Ranch Cmty. Ass'n*, 137 Nev. 516, 522, 495 P.3d 492, 498 (2021). Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.<sup>3</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Jim C. Shirley, District Judge  
Justin Odell Langford  
Attorney General/Carson City  
Clerk of the Court/Court Administrator

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<sup>3</sup>We have considered all documents filed or received in this matter. We conclude Langford is only entitled to the relief described herein.