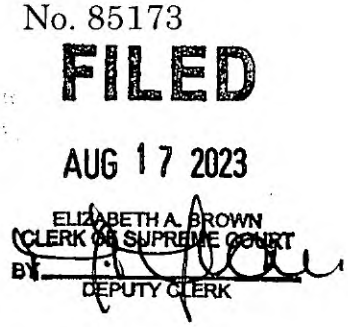
IN THE SUPREME COURT OF THE STATE OF NEVADA

MARLON LORENZO BROWN,
Appellant,
vs.
MICHAEL SYLMAN; EASY BAIL, LLC; AND AMERICAN SURETY COMPANY,
Respondents.

No. 85173



ORDER OF AFFIRMANCE

This pro se appeal challenges an award of compensatory and punitive damages following the entry of default judgment. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.[1]

The underlying dispute arises from respondent Michael Slyman, Easy Bail, LLC, and American Surety Company's actions after posting appellant Marlon Brown's bail in a criminal case. After obtaining entry of default against Slyman, Easy Bail, and American Surety, Brown filed an application for default judgment. The district court held a prove-up hearing to determine damages, after which it entered a judgment by default, awarding Brown $46,300 in compensatory damages, $46,300 in punitive damages, and pre- and post-judgment interest. Brown now appeals the damages award.

Brown first argues the district court erred by not awarding him his requested compensatory and punitive damages, which amounted to over $23 million. "[T]he district court is given wide discretion in calculating an

[1]Having considered the pro se brief filed by appellant, we conclude that a response is not necessary, NRAP 46A(c), and that oral argument is not warranted, NRAP 34(f)(3). This appeal therefore has been decided based on the pro se brief and the record. *Id.*

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award of damages, and this award will not be disturbed on appeal absent an abuse of discretion," *Diamond Enters., Inc. v. Lau*, 113 Nev. 1376, 1379, 951 P.2d 73, 74 (1997), and we will affirm the award if supported by substantial evidence, *Wyeth v. Rowatt*, 126 Nev. 446, 470, 244 P.3d 765, 782 (2010) (addressing compensatory and punitive damages). Additionally, we have held that "although allegations in the pleadings are deemed admitted as a result of the entry of default," such an admission does not relieve the nonoffending party's burden of presenting "sufficient evidence to establish a prima facie case, which includes substantial evidence that the damages sought are consistent with the claims for which the nonoffending party seeks compensation." *Foster v. Dingwall*, 126 Nev. 56, 68, 227 P.3d 1042, 1050 (2010); *Constr. Indus. Workers' Comp. Grp. ex rel. Mojave Elec. v. Chalue*, 119 Nev. 348, 352, 74 P.3d 595, 597 (2003) (defining substantial evidence as "that which 'a reasonable mind might accept as adequate to support a conclusion'" (quoting *Richardson v. Perales,* 402 U.S. 389, 401 (1971))). In other words, an entry of default does not "entitl[e] a nonoffending party to unlimited or unjustifiable damages." *Foster*, 126 Nev. at 68, 227 P.3d at 1050.

Brown largely relies on the findings made by the Commissioner of Insurance in Brown's administrative case against respondents Slyman and Easy Bail to revoke their licenses. While the Commissioner's findings may support liability, the Commissioner's order is silent as to the amount of Brown's damages, with the exception of his vehicle's value. And Brown did not provide any documentary or testimonial evidence in support of any of his remaining claimed damages. For example, Brown sought over $2 million in compensatory damages, plus an equal amount of punitive damages, for loss of income stemming from the loss of his business.

However, he conceded that he did not have any tax returns because the business had been under his name for only four months when he was arrested (it previously was in his mother's name). Further, while Brown sought millions in damages for intentional infliction of emotional distress and breach of fiduciary duty, he failed to provide any evidence as to how he arrived at these figures. *See Foster*, 126 Nev. at 69, 227 P.3d at 1051 (upholding an award of damages as supported by substantial evidence when the party worked "with a certified public accountant to review roughly 50,000 pages of documents gathered over at least two years" and "presented charts and other demonstrative evidence" for each cause of action). As for the value of his vehicle, the Commissioner found it to be $46,300. And while Brown relies on the minutes in his criminal case to support his assertion that the blue book value of his car was $95,000, the minutes from the criminal case are not sufficient to establish the value of the vehicle. Based on the commissioner's finding, substantial evidence supports the district court's finding that Brown was entitled to $46,300 as compensatory damages for the loss of his vehicle. Combined with the Commissioner's findings on Slyman, Easy Bail, and American Surety's misconduct related to the vehicle, and Brown's lack of any additional evidence, we further conclude that substantial evidence supports the district court's award of $46,300 in punitive damages, and pre- and post-judgment interest.[2]

To the extent Brown argues that the district judge should be disqualified for bias upon remand, he fails to demonstrate that remand is warranted or allege any conduct external to the judicial proceedings to support his request, and instead focuses on statements made at the hearing,

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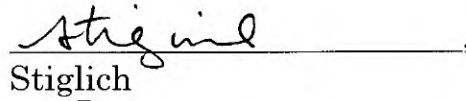
[2]For this reason, we reject Brown's request that we award him $95,000, plus punitive damages and interest.

which did not show that the judge had closed "her mind to the presentation of all the evidence." *Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998); *see also In re Petition to Recall Dunleavy*, 104 Nev. 784, 789-90, 769 P.2d 1271, 1275 (1988) (holding that personal bias sufficient to disqualify a district court judge "must stem from an extrajudicial source" (internal quotation marks omitted)). To the contrary, the record reflects that the district court properly considered the evidence adduced by Brown. We therefore

ORDER the judgment of the district court AFFIRMED.



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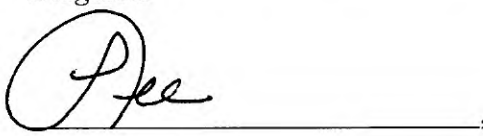

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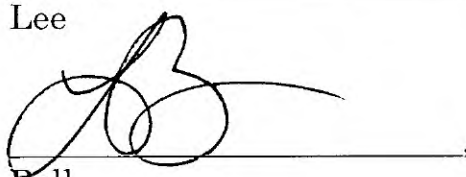

_____, J.
Bell

cc: Hon. Susan Johnson, District Judge
Marlon Lorenzo Brown
Pitaro & Fumo, Chtd.
Eighth District Court Clerk