


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LORI IRISH,
Appellant,
vs.
DESERT TRAILS COMMUNITY
ASSOCIATION; AND FIRSTSERVICE
RESIDENTIAL, NEVADA, LLC,
Respondents.

No. 85426-COA

FILED
MAR 22 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Lori Irish appeals from a district court order granting a motion for case concluding sanctions in a tort action. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Irish filed a complaint in which she alleged that Desert Trails Community Association and Firstservice Residential, Nevada, LLC (respondents) were responsible for maintaining a common area in a residential housing area. Irish further alleged that respondents permitted an extension cord to be placed across a sidewalk in the common area in an unsafe manner. Irish contended she tripped over the cord, fell onto concrete, and sustained injuries as a result. Irish further contended that respondents were liable for money damages based upon theories of negligence. Respondents answered the complaint and this matter subsequently proceeded to discovery.

The parties had several disputes during the discovery proceedings, leading to the district court directing the parties to proceed “in a professional and civil manner.” Irish subsequently filed several motions

concerning discovery and the district court set a hearing on those motions for September 10, 2019. At the hearing, respondents notified the district court that Irish had recently sent multiple emails and made multiple phone calls in which she threatened and harassed respondents' counsel, counsel's staff, and respondents' insurance adjuster. As a result of the threatening and harassing nature of Irish's emails and phone calls, respondents stated their intention to move for case concluding sanctions and requested that the district court stay the proceedings and issue a no-contact order until the resolution of their motion. The district court discussed those issues with Irish and Irish stated that her email account had been hacked. Irish also expressed her belief that respondents had been the ones who hacked into her email account.

Following this discussion, the district court ordered the parties not to contact each other until it resolved the case concluding sanctions issues, stayed the remaining proceedings pending resolution of those issues, and warned Irish that violation of the no-contact order may result in the imposition of additional sanctions. The district court further informed Irish that, after respondents filed their written motion, she would have the opportunity to oppose it and that issues raised by the motion would be addressed at a hearing on October 22, 2019, at 9:30 a.m.

On September 24, 2019, respondents filed a written motion requesting a protective order and case concluding sanctions. Respondents urged the district court to dismiss this matter pursuant to NRCP 11, NRCP 37, and the court's inherent power to dismiss a case for abusive litigation practices, as they contended Irish's behavior demonstrated a pattern of harassment and a failure to follow the court's orders. Respondents provided

a lengthy explanation of Irish's history of threatening and harassing statements directed at respondents and their counsel. They further contended that Irish filed multiple documents containing defamatory and baseless statements. Respondents noted that Irish accused them of hacking into her email account, but they asserted that the allegations were untruthful. In addition, respondents argued that Irish had violated the district court's no-contact order and had continued her harassing behavior.

Respondents filed exhibits in support of the motion, including emails sent from Irish's email address. The motion expressly noted that a hearing concerning the motion was set for October 22, 2019, at 9:30 a.m. As set forth in the certificate of service for respondents' motion, respondents served Irish with a copy of the motion and the supporting exhibits via the e-filing system and by U.S. mail.

One day later, on September 25, 2019, Irish filed a motion for disqualification of the district court judge because she believed the judge was biased against her because she is proceeding pro se. The district court judge filed an affidavit denying any bias and contending that disqualification was not appropriate. The Chief Judge later entered a written order denying Irish's motion to disqualify the district court judge.

Returning to respondents' motion for case concluding sanctions, Irish failed to file an opposition to that motion. She also did not appear at the October 22, 2019, hearing concerning the motion. Because Irish failed to appear at the initial hearing, the district court reset the hearing for October 29, 2019, and issued a notice to the parties concerning the new hearing, but Irish also did not appear at the rescheduled hearing. As a

result, the district court reset the hearing a third time—this time for November 5, 2019, but Irish again did not appear.

The district court subsequently entered an order granting respondents' motion for case concluding sanctions. In the order, the district court reviewed Irish's behavior and the allegations contained in respondents' motion. The district court found that Irish's messages were alarming and that they included threats and profane language. The district court also noted that Irish stated that she knew where a person employed by Firstservice Residential resided and utilized threatening language toward Firstservice Residential employees. Finally, the district court found that Irish failed to file a written opposition to respondents' motion and did not appear at any of the hearings concerning the motion. As a result, the court concluded that, under EDCR 2.20(e), Irish's failure to oppose respondents' motion meant she conceded the motion was meritorious and consented to the granting of the motion. Therefore, the court ordered Irish's case dismissed with prejudice.

Irish subsequently moved for reconsideration of the district court's decision to dismiss her case, arguing she was not served with respondents' motion and did not receive notice of the hearing. Irish also again contended that respondents hacked into her email account and stated that she should have been served via the U.S. mail system rather than the e-filing system. Respondents opposed the motion, which the district court later denied. In so doing, the district court found that respondents' certificate of service demonstrated that Irish was served with the motion and that Irish had actual notice of the hearing concerning the aforementioned motion. The court also found that Irish failed to

demonstrate her email hacking accusations had merit. This appeal followed.

On appeal, Irish first argues that the district court abused its discretion by granting respondents' motion for case concluding sanctions and dismissing her case. Irish contends she did not have notice and an opportunity to be heard concerning the motion in violation of her right to due process. She asserts she did not receive notification of the motion or the related hearings from the court's e-filing system as her email account had been hacked and also states she did not receive the motion in the mail.

Under EDCR 2.20(e), the district court has the discretion to construe a party's failure to oppose a motion "as an admission that the motion . . . is meritorious and a consent to granting the same." *See Las Vegas Fetish & Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 278 & n.15, 182 P.3d 764, 768 & n.15 (2008) (reviewing a district court decision to grant a motion pursuant to EDCR 2.20(b) (now EDCR 2.20(e)) for an abuse of discretion). A district court abuses its discretion when its findings are not supported by substantial evidence, *Miller v. Miller*, 134 Nev. 120, 125, 412 P.3d 1081, 1085 (2018), "which is evidence that a reasonable person may accept as adequate to sustain a judgment," *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007). However, we review "constitutional challenges de novo, including a violation of due process rights challenge." *Eureka Cnty. v. Seventh Jud. Dist. Ct.*, 134 Nev. 275, 279, 417 P.3d 1121, 1124 (2018).

Here, the record contains a certificate of service stating that respondents served their motion for case concluding sanctions upon Irish via the district court's e-filing system and the U.S. mail. The district court

found that respondents' certificate of service demonstrated that they served the motion upon Irish at her mailing address. *See Zugel v. Miller*, 99 Nev. 100, 101, 659 P.2d 296, 297 (1983) (explaining that whether a party was mailed notice is a question of fact). While Irish disputes the district court's finding on this point, the court's decision is supported by the record and this court is not at liberty to reweigh the evidence on appeal.¹ *See Quintero v. McDonald*, 116 Nev. 1181, 1183, 14 P.3d 522, 523 (2000). Because service of the motion was complete upon mailing, *see* NRCP 5(b)(C), Irish had adequate notice of respondents' request for case concluding sanctions such that her due process rights were not violated, *see Matter of Guardianship of D.M.F.*, 139 Nev., Adv. Op. 38, 535 P.3d 1154, 1163 (2023) (stating that "[n]otice is sufficient to satisfy due process where it is reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections").

The record further demonstrates that the district court advised Irish at the September 10, 2019, hearing that it would consider respondents' request for case concluding sanctions at a hearing set for October 22, 2019, at 9:30 a.m. *See Div. of Child & Fam. Servs. v. Eighth Jud. Dist. Ct.*, 120 Nev. 445, 454, 92 P.3d 1239, 1245 (2004) (explaining that "oral court orders pertaining to case management issues, scheduling, administrative matters or emergencies that do not allow a party to gain an advantage are valid and

¹Because the district court's finding that Irish was properly served with the motion at her mailing address is supported by substantial evidence, her assertion that she did not receive the electronically served copy of the motion because her e-mail address was purportedly hacked does not provide a basis for relief.

enforceable”). Respondents’ motion also stated the date and time of the aforementioned hearing.

Moreover, when Irish did not appear at the initial hearing, the district court rescheduled that hearing, with notice to the parties, and when Irish did not appear for the rescheduled hearing, the district court rescheduled the hearing a second time, but Irish again did not appear. Thus, the record demonstrates that Irish had a meaningful opportunity to be heard by filing an opposition to respondents’ motion and by appearing at the hearing on that motion, but she failed to avail herself of those opportunities. *See Mesi v. Mesi*, 136 Nev. 748, 750, 478 P.3d 366, 369 (2020) (providing that “[d]ue process is satisfied where interested parties are given an opportunity to be heard at a meaningful time and in a meaningful manner” which may “take[] the form of a live hearing” when “a district court rules on a dispositive motion” (internal quotation marks omitted)). Under these circumstances, we discern no violation of Irish’s right to due process. *Id.*

As detailed above, despite receiving notice of respondents’ motion for case concluding sanctions and the hearing concerning that motion, Irish did not file a written opposition to the motion or appear at the initial hearing or any of the rescheduled hearings. Under these circumstances, we cannot conclude that the district court abused its discretion in dismissing Irish’s case, with prejudice, based on her failure to oppose the motion under EDCR 2.20(e). *See Las Vegas Fetish & Fantasy Halloween Ball*, 124 Nev. at 278 & n.15, 182 P.3d at 768 & n.15. Accordingly, Irish is not entitled to relief based on this claim.

We further conclude that the district court did not abuse its discretion in denying Irish's motion for reconsideration of the dismissal order. *See AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 584-85, 589, 245 P.3d 1190, 1194, 1197 (2010) (recognizing that the denial of a timely motion for reconsideration of a final judgment can be reviewed, in the context of an appeal from that judgment, under an abuse of discretion standard). Irish's reconsideration requests focused on her contention that she was not provided with notice and an opportunity to be heard. However, this argument lacks merit for the reasons set forth above. Further, the district court's conclusion that Irish failed to provide evidence sufficient to prove her claim that respondents hacked her email account is supported by the record. *See Miller*, 134 Nev. at 125, 412 P.3d at 1085. Irish thus fails to demonstrate any abuse of discretion in the denial of her motion for reconsideration. *AA Primo Builders, LLC*, 126 Nev. at 589, 245 P.3d at 1197.

Finally, Irish argues that the district court abused its discretion by denying her motion to disqualify the district court judge. Irish contends that the district court judge was biased against her because she proceeded in pro se. As evidence for her assertion of bias, Irish notes that the district court judge stated during a hearing that problems in this matter had been caused by Irish's desire to represent herself. Irish also contends that the district court judge treated her with disrespect.

We review a decision concerning a motion to disqualify a district court judge for an abuse of discretion. *See Ivey v. Eighth Jud. Dist. Ct.*, 129 Nev. 154, 162, 299 P.3d 354, 359 (2013). "A judge is presumed to be unbiased, and the burden is on the party asserting the challenge to establish


sufficient factual grounds warranting disqualification.” *Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009) (internal quotation marks omitted), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 6, 501 P.3d 980, 984 (2022), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev., Adv. Op. 43, 535 P.3d 1167, 1171 (2023).


Here, the Chief Judge reviewed Irish’s motion to disqualify the district court judge and the district court judge’s affidavit filed in response to Irish’s motion and denied Irish’s motion. In so doing, the Chief Judge concluded that disqualification was unwarranted because Irish had failed to show that the district court judge’s comments on Irish’s desire to represent herself were indicative of improper bias. The Chief Judge also concluded that Irish otherwise failed to meet her burden to establish factual grounds warranting disqualification.

We conclude Irish fails to demonstrate that the Chief Judge abused her discretion by denying Irish’s motion to disqualify the district court judge. The record supports the Chief Judge’s finding that Irish failed to establish factual grounds warranting disqualification. *See id.* Moreover, Irish does not demonstrate that the district court judge’s decisions in the underlying case were based on knowledge acquired outside of the proceedings and the judge’s comments do not otherwise reflect “a deep-seated favoritism or antagonism that would make fair judgment impossible.” *Canarelli v. Eighth Jud. Dist. Ct.*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (internal quotation marks omitted) (explaining that unless an alleged bias has its origins in an extrajudicial source, disqualification is unwarranted absent a showing that the judge formed an opinion based on facts introduced during official judicial proceedings and which reflects deep-

seated favoritism or antagonism that would render fair judgment impossible); see *In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) (providing that rulings made during official judicial proceedings generally “do not establish legally cognizable grounds for disqualification”). Irish is therefore not entitled to relief based on this claim.

Based on the reasoning set forth above, we
ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Westbrook

cc: Hon. Jacqueline M. Bluth, District Judge
Lori Irish
Wood, Smith, Henning & Berman, LLP/Las Vegas
Eighth District Court Clerk

²Insofar as Irish raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

The Honorable Bonnie A. Bulla did not participate in the decision in this matter.