

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CEDRIC GREENE,
Appellant,
vs.
ST. NICHOLAS MEDICAL GROUP,
Respondent.

No. 88360-COA

FILED
APR 15 2025
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE WITH INSTRUCTIONS

Cedric Greene appeals from a district court order dismissing the underlying tort action based on a lack of personal jurisdiction over respondent. First Judicial District Court, Carson City; James Todd Russell, Judge.

Greene, a California resident, initiated the underlying civil action against respondent St. Nicholas Medical Group, which is a California medical services provider. Greene contends that he had a medical appointment with St. Nicholas, which was then supposed to submit medical referrals to his new medical group for various services. According to Greene, St. Nicholas failed to submit the referrals to his new medical group in a timely manner, or at least within the time they told him they would do so. He further contends the referrals were not done correctly, resulting in at least one of them not being approved. Based on these allegations, Greene sought \$80,000 in damages.

St. Nicholas subsequently moved to dismiss that complaint, asserting—among other things—that Nevada does not have personal jurisdiction over it. The motion first noted that St. Nicholas is not actually an incorporated entity, but is instead a trade name for a medical clinic. Moreover, St. Nicholas asserted that the clinic’s “sole and exclusive office”

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is located in Los Angeles, California, the doctor who runs the clinic is not licensed in Nevada, and the clinic does not operate in or otherwise do business in Nevada. St. Nicholas further noted that Greene is a resident of California and that none of the alleged acts in the complaint occurred here. It asserted Nevada had no connection to the matters set forth in the complaint, and thus Greene could not show St. Nicholas has any contacts with Nevada, much less the required minimum contacts to show that personal jurisdiction can be properly exercised over it here. Based on the foregoing, St. Nicholas argued the case should be dismissed for lack of jurisdiction.

Rather than oppose the motion—which he deemed St. Nicholas’s answer—Green moved to strike it, asserting it was untimely filed. St. Nicholas opposed that motion.

The district court subsequently entered an order granting St. Nicholas’s motion to dismiss on March 12, 2024. The court found that St. Nicholas was not a Nevada resident and had no contacts with Nevada. Further, the court found that Greene’s claims did not arise out of or relate to any Nevada forum-related activities. Instead, the allegations relate to events that took place in Los Angeles, California. As a result, the court concluded that exercising personal jurisdiction in this matter would violate notions of fair play and substantial justice and, thus, the district court granted the motion and dismissed Greene’s complaint with prejudice.¹ This appeal followed.

¹Following the entry of the March 12 dismissal order, but before Greene filed his notice of appeal, the district court entered a second dismissal order purporting to dismiss the complaint, with prejudice, on multiple grounds. But there can be only one final judgment in a case—here the March 12 dismissal order—and thus, the district court’s subsequent order of dismissal was of no effect. *See Alper v. Posin*, 77 Nev. 328, 363 P.2d

We review a district court's resolution of personal jurisdiction issues de novo. *See Baker v. Eighth Jud. Dist. Ct.*, 116 Nev. 527, 531, 999 P.2d 1020, 1023 (2000). "[A] nonresident defendant must have sufficient minimum contacts with the forum state so that subjecting the defendant to the state's jurisdiction will not offend traditional notions of fair play and substantial justice." *Fulbright & Jaworski v. Eighth Jud. Dist. Ct.*, 131 Nev. 30, 36, 342 P.3d 997, 1001 (2015) (internal quotation marks and citation omitted). When a defendant challenges personal jurisdiction, the plaintiff must introduce evidence to make a prima facie showing that personal jurisdiction exists. *Trump v. Eighth Jud. Dist. Ct.*, 109 Nev. 687, 692-93, 857 P.2d 740, 743-44 (1993).

Here, not only did Greene fail to oppose the motion to dismiss in the district court, but on appeal, he failed to challenge the district court's findings that St. Nicholas was not a resident of Nevada, that it had no contacts with the state, and that Greene's claims did not arise out of any forum-related activities in Nevada, and instead concerned events that took place in California. Nor does he present any argument suggesting that he somehow made a prima facie showing that personal jurisdiction over St. Nicholas was proper. *Id.*

As a result, Greene has waived any challenge to the findings and legal conclusions underpinning the district court's determination that it lacked personal jurisdiction over St. Nicholas. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that "[i]ssues not raised in an appellant's opening brief are deemed waived"). Under these circumstances, we cannot conclude that the district


502, 503 (1961), *overruled on other grounds by Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000).

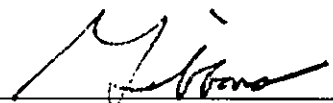
court erred in dismissing Greene's case on this basis. *See Baker*, 116 Nev. at 531, 999 P.2d at 1023. We therefore affirm that determination.


Greene does, however, assert that if this court affirms the dismissal of his case on personal jurisdiction grounds, that any such dismissal should have been without prejudice so that he can pursue his claims in another forum. We agree.

Pursuant to NRCP 41(b), a dismissal for lack of jurisdiction, which includes a motion to dismiss under NRCP 12(b)(2), does not operate as an adjudication on the merits. *See Guidry v. U.S. Tobacco Co.*, 188 F.3d 619, 623 n.2 (5th Cir. 1999) (providing that a dismissal pursuant to federal Rule 12(b)(2) is not with prejudice); *Kendall v. Overseas Dev. Corp.*, 700 F.2d 536, 539 (9th Cir. 1983) ("[A] dismissal for lack of in personam jurisdiction is not res judicata as to the merits of the claim."). Under these circumstances, the dismissal of Greene's case, with prejudice, was in error. Thus, upon issuance of the remitter, we direct the district court to strike the words "with prejudice" from its dismissal order.

It is so ORDERED.²


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

²To the extent Greene purports to challenge various district court rulings made after he filed the notice of appeal, his arguments on those points are not properly before us, and we do not consider them. And insofar as Greene 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.

cc: First Judicial District Court
Cedric Greene
Quintairos, Prieto, Wood & Boyer, P.A.
Carson City Clerk