

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JERRY EARL JOHNSON, AN  
INDIVIDUAL,  
Appellant,  
vs.  
ERIN MCREYNOLDS, AN  
INDIVIDUAL,  
Respondent.

No. 79532-COA

**FILED**

AUG 24 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jerry Earl Johnson appeals from a district court order dismissing a tort action. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

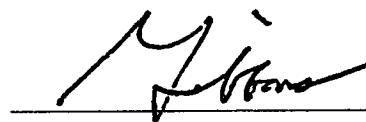
Johnson filed a complaint against respondent Erin McReynolds on April 11, 2019, alleging causes of action for defamation and intentional infliction of emotional distress related to statements made by McReynolds on February 10, 2017. McReynolds moved to dismiss due to the expiration of the two-year statute of limitations and the district court granted the motion over Johnson's opposition. This appeal followed.

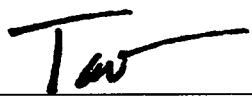
On appeal, Johnson does not dispute that his claims were subject to a two-year statute of limitations or that his complaint was actually filed after it expired. Instead he asserts that he was incarcerated and that he timely submitted the complaint in the prison mail system but that it was misplaced. He then argues that the "prison mailbox rule," which would deem the complaint filed on the date he submitted it to prison officials, should be applied to conclude his complaint was timely filed. But the Nevada Supreme Court declined to extend the prison mailbox rule to

the filing of pleadings commencing a civil action in a case that, like the instant matter, was subject to a two-year statute of limitations. *See Milton v. State, Dep't of Prisons*, 119 Nev. 163, 165, 68 P.3d 895, 896 (2003) (“[Appellant] asks us to extend [the prison mailbox rule] beyond notices of appeal to the filing of pleadings commencing any civil action. We decline his invitation to do so.”).

And while Johnson argues that whether the mail box rule applies should be determined on a case-by-case basis, in *Milton*, the supreme court only noted one exception to its decision not to extend the prison mail box rule to civil complaints, which is not applicable here. Notably, the supreme court held that a party could obtain relief by showing that the delay in filing was the result of “some mischief,” although relief would only be available if fraud was shown. *Id.* at 165 n.11, 68 P.3d at 896 n.11. But the court specifically stated that, if the delay was caused by the “vagaries” of the prison mail system, there would be no relief available. *Id.* And here, Johnson makes no allegations of “mischief” or fraud, and instead essentially asserts that the delay was caused by the vagaries of the prison mail system. *See id.* Based on the foregoing, we necessarily

ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Tao

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

cc: Hon. Joseph Hardy, Jr., District Judge  
Jerry Earl Johnson  
Douglas Crawford Law  
Eighth District Court Clerk

1       **NEO**  
2       DOUGLAS C. CRAWFORD, Esq.  
3       Nevada Bar No.: 181  
4       doug@douglascrawfordlaw.com  
5       DOUGLAS CRAWFORD LAW  
6       1404 S. Jones Blvd.  
7       Las Vegas, Nevada 89146  
8       Phone: (702) 383-0090; Fax: (702) 333-4667  
9       *Attorney for Defendant, Erin McReynolds*

10      *Steven D. Grierson*  
11      *Clerk of the Court*  
12      *8/12/2019 4:15 PM*  
13      *Steven D. Grierson*  
14      *Clerk of the Court*  
15      *8/12/2019 4:15 PM*  
16      *Steven D. Grierson*  
17      *Clerk of the Court*  
18      *8/12/2019 4:15 PM*  
19      *Steven D. Grierson*  
20      *Clerk of the Court*  
21      *8/12/2019 4:15 PM*

6                   **EIGHTH JUDICIAL DISTRICT COURT**  
7                   **CLARK COUNTY, NEVADA**

8       JERRY EARL JOHNSON, an individual;

9       Plaintiff,

10      v.

11      ERIN MCREYNOLDS, an individual;

12      Defendants.

13      Case No.: A-19-792817-C  
14      Dept.: XV

15                   **NOTICE OF ENTRY OF ORDER**

16      PLEASE TAKE NOTICE that an ORDER was entered in the above matter on  
17      August 12, 2019 a true and correct copy of which is attached hereto.

18      DATED this 12<sup>th</sup> day of August 2019.

19      Respectfully submitted:  
20      /s/ Douglas Crawford, Esq.

21      

---

22      DOUGLAS C. CRAWFORD, ESQ.  
23      Nevada State Bar Number: 181  
24      1404 S. Jones Blvd.  
25      Las Vegas, NV 89146  
26      Email: [doug@douglascrawfordlaw.com](mailto:doug@douglascrawfordlaw.com)  
27      *Attorney for Defendant, Erin McReynolds*



1

**CERTIFICATE OF SERVICE**

2

I HEREBY CERTIFY that on the 12<sup>th</sup> day of August, 2019, I served the  
foregoing Notice of Entry of Order to all interested parties as follows:

3

**BY MAIL**

4

• Jerry Earl Johnson  
5 HDSP #1178106  
P.O. Box 650  
6 Indian Springs, NV 89070

7

**BY CERTIFIED MAIL**

8

**BY FACSIMILE**

9

**BY E-SERVICE**

10

**BY E-MAIL**

11

*/s/ Debbie Hicks*

12

An employee of Douglas Crawford Law

13

DOUGLAS CRAWFORD LAW



1      **ORDR**

2      DOUGLAS C. CRAWFORD, Esq.  
3      Nevada Bar No.: 181  
4      doug@douglascrawfordlaw.com  
5      DOUGLAS CRAWFORD LAW  
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7      Las Vegas, Nevada 89146  
8      Phone: (702) 383-0090; Fax: (702) 333-4667  
9      *Attorney for Defendant, Erin McReynolds*

10     Electronically Filed  
11     8/12/2019 3:43 PM  
12     Steven D. Grierson  
13     CLERK OF THE COURT  
14     *Steven D. Grierson*

15     **EIGHTH JUDICIAL DISTRICT COURT**  
16     **CLARK COUNTY, NEVADA**

17     JERRY EARL JOHNSON, an individual;

18     Plaintiff,

19     v.

20     ERIN MCREYNOLDS, an individual;

21     Defendants.

22     Case No.: A-19-792817-C  
23     Dept.: XV24     **ORDER FROM AUGUST 5,**  
25     **2019 HEARING**

26     The above-entitled matter having come before the Court on the 5<sup>th</sup> of August  
27     2019 on Defendant's Motion to Dismiss; Plaintiff being absent and representing  
28     himself, pro se, and Defendant being represented on behalf of Tex J. Boonjue, Esq.,  
29     of DOUGLAS CRAWFORD LAW, the Court having considered all pleadings and  
30     papers on file herein at said hearing, hereby orders as follows:

31     **THE COURT HEREBY FINDS** that even assuming the Plaintiff was correct  
32     regarding the mailing issue, the Court agreed with the Defendant's analysis of the  
33     Motion to Dismiss by Delt(s)

|  |  |
|--|--|
| <input type="checkbox"/> Voluntary Dismissal                     | <input type="checkbox"/> Summary Judgment        |
| <input type="checkbox"/> Involuntary Dismissal                   | <input type="checkbox"/> Stipulated Judgment     |
| <input type="checkbox"/> Stipulated Dismissal                    | <input type="checkbox"/> Default Judgment        |
| <input checked="" type="checkbox"/> Motion to Dismiss by Delt(s) | <input type="checkbox"/> Judgment of Arbitration |

1 *McIntyre, Milton* and *Gonzalez* cases, and that pursuant to these cases, the “mailbox  
2 rule” as cited by Plaintiff, does not apply to civil filings.

3 **THE COURT FURTHER FINDS** that in *McIntyre v. Chief of Police, Reno*,  
4 127 Nev. 1159, 373 P.3d 941 (Table)(Sep. 5 2011), the Nevada Supreme Court  
5 upheld dismissal on statute of limitations grounds because “the prison mailbox rule  
6 does not apply to the filing of pleadings commencing a civil action.” *Id.*, citing  
7 *Milton v. State Dep’t of Prisons*, 119 Nev. 163, 165, 68 P.3d 895, 896 (2003).

8 **THE COURT FURTHER FINDS** that in *Gonzalez v. State*, 118 Nev. 590,  
9 53 P.3d 901 (2002), the Nevada Supreme Court declined to extend the mailbox rule  
10 to post-conviction petitions for writs of habeas corpus. *Gonzalez* distinguished  
11 between the need to apply the “mailbox rule” to notices of appeal (which carry a 30-  
12 day deadline) versus a petition for post-conviction relief, which has a one-year  
13 deadline, which, itself, can be excused by a showing of good cause and prejudice.

14 **THE COURT FURTHER FINDS** that in *Milton, supra*, the court held that  
15 the injured party had two years from the date of his injuries within which to file his  
16 lawsuit and that, as in *Gonzales*, the Court found no compelling policy reason to  
17 create a blanket “mailbox rule” for the filing of complaints for personal injuries.

18 **THE COURT FURTHER FINDS** that Plaintiff had two (2) years to file suit.  
19 That is an abundance of time. As *Gonzalez*, noted, there is a substantial difference  
20 between a one-year statute of limitations (for a post-conviction filing to which the  
21



1 "mailbox rule" does not apply) and a 30-day deadline for a Notice of Appeal (for  
2 which the "mailbox rule" does apply).

3 **THE COURT FURTHER FINDS** that while the Court accepted all of the  
4 allegations as pled in the Complaint as true, the actions alleged in the Complaint  
5 occurred more than two years prior to the filing of the Complaint. Therefore, the  
6 Plaintiff's Complaint in the instant case is time-barred by the Nevada statute of  
7 limitations.

8 **THE COURT ORDERS** that the Complaint in the instant case is hereby  
9 Dismissed with Prejudice pursuant to NRCP 12(b)(5) for failure to state a claim  
10 upon which relief may be granted.



**THE COURT FURTHER ORDERS** that Attorney Boonjue shall prepare the order and submit it directly to the Court.

Dated this 8<sup>th</sup> day of August, 2019

**DISTRICT COURT JUDGE BM**

Submitted by

## DOUGLAS CRAWFORD LAW

TEX J. BOONJUE, ESO

Nevada Bar No · 15016

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Las Vegas, NV 89146

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*Attorney for Defendant, Erin McReynolds*

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERRY EARL JOHNSON, AN INDIVIDUAL,  
Appellant,  
vs.  
ERIN MCREYNOLDS, AN INDIVIDUAL,  
Respondent.

Supreme Court No. 79532  
District Court Case No. A792817

FILED

OCT 01 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: September 18, 2020

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch  
Deputy Clerk

cc: (without enclosures):

Hon. Joseph Hardy, Jr., District Judge  
Jerry Earl Johnson  
Douglas Crawford Law

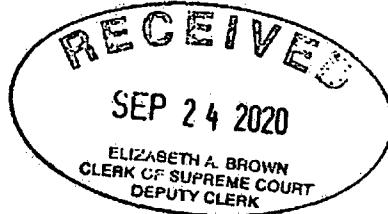
RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on SEP 21 2020

*[Signature]*  
Deputy District Court Clerk

RECEIVED  
APPEALS

SEP 21 2020



**IN THE SUPREME COURT OF THE STATE OF NEVADA**

JERRY EARL JOHNSON, AN INDIVIDUAL,  
Appellant,  
vs.  
ERIN MCREYNOLDS, AN INDIVIDUAL,  
Respondent.

**Supreme Court No. 79532**  
District Court Case No. A792817

**CLERK'S CERTIFICATE**

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

**JUDGMENT**

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 24th day of August, 2020.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this September 18, 2020.

Elizabeth A. Brown, Supreme Court Clerk

By: Rory Wunsch  
Deputy Clerk

STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS  
INMATE ACCOUNT TRANSACTION  
REQUEST

Date: 1-17-19 No. 3720052

To: Inmate services

I hereby authorize my account to be charged in the amount  
of \$5.00.....(.....Dollars).

Please pay to DOA.....

Signature John J. Edwards.....

Print name John J. Edwards.....

ID No. 117162 Institution Attica.....

Approved by.....

| Transfer | Purchase Order | Postage    | Other |
|----------|----------------|------------|-------|
|          |                | <u>40¢</u> |       |

White  
Canary  
Pink

Inmate Services  
Institution Copy  
Inmate

DOC 509 (Rev.2/06)



Jerry E. Johnson #1178106  
Hosp P.O. Box 650  
Indian Springs NV. 89470

Clerk  
Stu Jo  
200 Lewis Ave  
Las Vegas NV. 89155

1728852

REC'D

JAN 17 2019

HIGH DESERT  
LIBRARY  
PRISON