

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL A. TRICARICHI,
Appellant,

vs.

PRICEWATERHOUSECOOPERS, LLP,
Respondent.

No. 86317

MICHAEL A. TRICARICHI, AN
INDIVIDUAL,
Appellant,

vs.

PRICEWATERHOUSECOOPERS, LLP,
Respondent.

No. 87375

FILED

APR 09 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Adelle*
DEPUTY CLERK

MICHAEL A. TRICARICHI,
Appellant,

vs.

PRICEWATERHOUSECOOPERS, LLP,
Respondent.

No. 87835

ORDER DENYING STAY

These are consolidated appeals from district court orders arising out of an accounting malpractice action. Appellant has filed a motion to stay enforcement of the post-judgment attorney fees and costs

24-12484

award pending appeal, without bond. Respondent has filed an opposition to the stay motion,¹ and appellant has filed a reply.²

“Appellants may obtain a stay of a money judgment pending appeal upon posting a supersedeas bond pursuant to NRCP 62(d).” *Clark Cty. Off. of Coroner/Med. Exam’r v. Las Vegas Review-Journal*, 134 Nev. 174, 174, 415 P.3d 16, 17 (2018). In *Nelson v. Heer*, this court recognized that district courts retain discretion to grant a stay without a full bond and/or upon adequate other security and set forth several factors for district courts to consider in determining when a full supersedeas bond may be waived or alternate security may be substituted:

(1) the complexity of the collection process; (2) the amount of time required to obtain a judgment after it is affirmed on appeal; (3) the degree of confidence that the district court has in the availability of funds to pay the judgment; (4) whether the defendant’s ability to pay the judgment is so plain that the cost of a bond would be a waste of money; and (5) whether the defendant is in such a precarious financial situation that the requirement

¹Respondent’s motion for leave to file a response to the stay motion that is 4 pages over the page limit is granted. NRAP 27(d)(2). Its motion for leave to file a redacted response and to file under seal the unredacted response and exhibits containing a debtor exam transcript and asset disclosure forms, based on a district court protective order, is granted. SRCR 3(4)(b) & 7. Thus, the redacted response was properly filed on March 28, 2024, and the clerk of this court shall file under seal the unredacted response and exhibits provisionally received in this court on April 2, 2024. While we grant the motion based on the district court’s protective order decision as reflected in the transcripts of the February 29, 2024, hearing, which are attached to appellant’s stay motion, we remind counsel that any motion to seal based on a district court protective order should include a copy of the district court’s order as an exhibit.

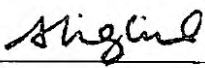
²Appellant’s motion for leave to file a reply that is 4 pages over the page limit is granted, NRAP 27(d)(2); thus, we have considered the reply filed on April 5, 2024.

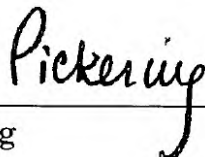
to post a bond would place other creditors of the defendant in an insecure position.

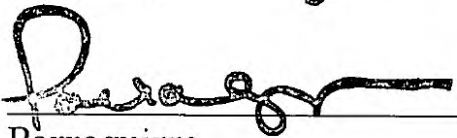
121 Nev. 832, 835-36, 122 P.3d 1252, 1253-54 (2005) (quoting *Dillon v. City of Chicago*, 866 F.2d 902, 904-05 (7th Cir. 1988)). The decision to allow a bond in an amount less than the judgment or to allow security other than a bond is within the district court's discretion. *Id.* at 834-35, 122 P.3d at 1253.

Here, appellant has not asked for a reduced bond amount or offered other security to protect respondent's ability to collect, instead contending that the status quo will be preserved by a tax lien. Having reviewed the motion, response, reply, and supporting documentation, however, we conclude that appellant has not demonstrated that the district court abused its discretion when it deemed the asserted tax lien insufficient security and denied a stay without bond under *Nelson*. See generally *Lightfoot v. Walker*, 797 F.2d 505, 507 (7th Cir. 1986) (reviewing the district court's denial of an unbonded stay for abuse of discretion, even when new arguments under the FRAP 8 factors were argued). Accordingly, we deny appellants' motion for a stay without bond pending appeal.

It is so ORDERED.


_____, J.
Stiglich


_____, J.
Pickering


_____, J.
Parraguirre

cc: Hon. Joanna Kishner, District Judge
Hutchison & Steffen, LLC/Las Vegas
Sperling & Slater, LLC/Chicago
Bartlit Beck LLP/Chicago
Snell & Wilmer, LLP/Las Vegas
Bartlit Beck LLP/Denver
Eighth District Court Clerk