

LESTER V. LESTER

This memorandum opinion was not selected for publication in the New Mexico Appellate Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.

**RALPH N. LESTER,
Plaintiff-Appellant,
v.
DEAN G. LESTER and KAREN LESTER,
Defendants-Appellees.**

No. 33,926

COURT OF APPEALS OF NEW MEXICO

January 29, 2015

APPEAL FROM THE DISTRICT COURT OF LEA COUNTY, Mark Terrence Sanchez,
District Judge

COUNSEL

Ralph Lester, Albuquerque, NM, Pro se Appellant

Dean G. Lester, Karen Lester, Ruidoso, NM, Pro Se Appellees

JUDGES

MICHAEL D. BUSTAMANTE, Judge. WE CONCUR: M. MONICA ZAMORA, Judge, J. MILES HANISEE, Judge

AUTHOR: MICHAEL D. BUSTAMANTE

MEMORANDUM OPINION

BUSTAMANTE, Judge.

{1} Plaintiff appeals, in a self-represented capacity, from the district court's dismissal of his case for filing a frivolous lawsuit. [RP 24, 35] Our notice proposed to affirm, and Plaintiff in turn filed an "objection to proposed disposition" (objection). We are unpersuaded by Plaintiff's arguments and therefore affirm.

{2} We acknowledge Plaintiff's arguments in his objection that the district court should not have ruled on the case in Plaintiff's absence [objection 1; RP 22] and that the court failed "to take into . . . consideration the facts and law relating to the case." [objection 1] For the reasons discussed in our notice, however, we conclude that the district court properly exercised its discretion to assess that Plaintiff's lawsuit was frivolous because Plaintiff failed to make a showing that he was entitled to his requested injunctive relief [RP 1, 2-3, 13] given his failure to satisfy the "irreparable injury" criteria for entitlement to injunctive relief. See *generally Moody v. Stribling*, 1999-NMCA-094, ¶ 30, 127 N.M. 630, 985 P.2d 1210 (providing that whether or not to grant equitable relief is a matter left to the sound discretion of the district court); see also *Hines Corp. v. City of Albuquerque*, 1980-NMSC-107, ¶ 13, 95 N.M. 311, 621 P.2d 1116 (noting that injunctive relief is granted to prevent irreparable injury for which there is no adequate and complete remedy at law). In this regard, in the event Plaintiff is ultimately successful in a claim that trust assets have been wrongfully distributed or mismanaged, then he has the available remedy of securing an award of monetary damages. We accordingly affirm.

{3} IT IS SO ORDERED.

MICHAEL D. BUSTAMANTE, Judge

WE CONCUR:

M. MONICA ZAMORA, Judge

J. MILES HANISEE, Judge