

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID E. ST. PIERRE,
vs.
THE STATE OF NEVADA,
DEPARTMENT OF CORRECTIONS;
JACKIE CRAWFORD; TED D'AMICO;
KAREN WALSH; ALBERT PERALTA;
ELDON K. MCDANIEL; DWIGHT
NEVEN; MARTHA THOMPSON; AND
MR. BOYNTON,
Respondents.

No. 48511

FILED

JUL 25 2007

JANE E. M. BLOOM
CLERK OF SUPREME COURT
BY *J. Boynton*
DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART
AND REMANDING

This is a proper person appeal from a district court order dismissing a complaint. Seventh Judicial District Court, White Pine County; Dan L. Papez, Judge.

Appellant David E. St. Pierre is an inmate at the Ely State Prison. St. Pierre filed a district court complaint, alleging, among other things, that respondents, employees of the Nevada Department of Corrections (collectively, "NDOC"), seized from his prison cell all of his personally owned, confidential "medical records and medical legal document copies," in violation of the U.S. Constitution, and that they did so in order to cover for their failure to maintain records as required by law and to prevent him from obtaining a replacement hearing aid.¹ St. Pierre sought damages for the cost of obtaining and reproducing the medical

¹Although St. Pierre made other claims in his complaint, only appeal, he challenges the district court's dismissal of only the third and fourth claims.

records, NDOC's use of his records to make copies for its files, and the replacement of his hearing aid. St. Pierre also sought a permanent injunction to prevent any future searches and seizures of medical records from his cell.

NDOC moved to dismiss St. Pierre's complaint for lack of subject matter jurisdiction, as a federal court had previously orally ordered NDOC to not remove any medical records from St. Pierre's cell without a hearing and order from that court. NDOC also argued for dismissal for failure to state a claim under NRCP 12(b)(5), because under prison regulations, the confiscated documents were "contraband" that St. Pierre is not allowed to keep in his cell because of fire and space considerations. St. Pierre opposed the dismissal motion.

The district court, however, granted the motion to dismiss, on both grounds.² The district court also dismissed as moot St. Pierre's claim with respect to his hearing aid, because St. Pierre had already received a replacement hearing aid at the time his complaint was filed. St. Pierre has appealed.

First, we note that a "motion to dismiss is properly granted when there is a lack of subject matter jurisdiction on the face of the

²Although a copy of the federal court's minute order and NDOC's prison regulations were attached to NDOC's motion to dismiss, the motion was not converted into one for summary judgment. See NRCP 12(b); Breliant v. Preferred Equities Corp., 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993) (stating that, as a general rule, the court may take into account matters of public record, orders, items present in the record of the case, and any exhibits attached to the complaint when ruling on a motion to dismiss for failure to state a claim).

complaint.”³ The Nevada district court has jurisdiction over any matters not in the justice court’s jurisdiction,⁴ and possesses original jurisdiction over claims for injunctive relief.⁵ Here, based on the face of the complaint seeking injunctive and other relief, the district court has subject matter jurisdiction and erred in dismissing the case on that basis, even though a federal court may have ruled on a similar issue.⁶

With respect to the alternative ground of dismissal, our review of the order is rigorous,⁷ as we, in determining whether St. Pierre set forth allegations sufficient to state a claim for relief,⁸ accept all factual allegations in his complaint as true and construe all inferences in his

³Rosequist v. Int’l Ass’n of Firefighters, 118 Nev. 444, 448, 49 P.3d 651, 653 (2002); see Girola v. Roussille, 81 Nev. 661, 663, 408 P.2d 918, 919 (1965).

⁴Nev. Const. art. 6, § 6 (providing that district courts do not have original jurisdiction over actions that fall within the justices courts’ original jurisdiction); see NRS 4.370 (conferring original jurisdiction upon the justices courts over civil actions for damages, if the damages claimed do not exceed \$10,000).

⁵Edwards v. Emperor’s Garden Rest., 122 Nev. 317, 324, 130 P.3d 1280, 1284 (2006).

⁶Cf. Maldonado v. Harris, 370 F.3d 945 (9th Cir. 2004) (concluding that the federal district court had jurisdiction over a 42 U.S.C. § 1983 claim challenging the constitutionality of a California billboard statute, and that a California state court judgment regarding the state statute and same plaintiff did not preclude the federal court from exercising jurisdiction).

⁷Vacation Village v. Hitachi America, 110 Nev. 481, 484, 874 P.2d 744, 746 (1994).

⁸Edgar v. Wagner, 101 Nev. 226, 699 P.2d 110 (1985).

favor.⁹ St. Pierre's complaint was properly dismissed only if his allegations, if proven, would not entitle him to any relief.¹⁰

NDOC's prison regulations, in relevant part, limit an inmate's possession of personal property to what will fit into one approved footlocker and one fire retardant box not to exceed 24 inches by 18 inches by 18 inches, as well as up to three appliances such as televisions or fans.¹¹ The regulations also state that "[i]nmates may not accumulate excess property that cannot be properly stored"¹² and that the prison "will not permit the possession of personal property that is considered contraband."¹³ "Contraband" is defined as "[a]ny item or article not authorized by departmental regulations, or in excess of the maximum quantity permitted" or which "is prohibited for possession due to health, fire or safety reasons."¹⁴ Under the regulations, inmates may be entitled to compensation for lost, damaged, stolen, or destroyed personal property.¹⁵

⁹See Breliant, 109 Nev. at 845, 858 P.2d at 1260.

¹⁰Hampe v. Foote, 118 Nev. 405, 408, 47 P.3d 438, 439 (2002).

¹¹Nevada Department of Corrections, Series 700 Inmate Regulations, Administrative Regulations (AR) 711.01, § 1.4.1 (effective September 6, 2003).

¹²Id. at AR 711.01, § 1.4.1.

¹³Id. at AR 711.01, § 1.4.3.

¹⁴Id. at AR 711.

¹⁵Id. at AR 711.03 (setting forth inmate grievance process for personal property claims).

In its dismissal order, the district court concluded that St. Pierre's documents were contraband that NDOC was justified in seizing under its legitimate regulations, but neither St. Pierre's complaint nor NDOC's motion to dismiss specified the amount of documents seized and retained and whether the documents actually exceeded the limitations imposed by the prison regulations. Rather, the complaint alleged that the documents were not contraband, as they were inspected and delivered to him by prison officials. The complaint also alleges that the documents that NDOC claimed were "contraband" were later returned to him, albeit in disarray and with an unspecified number of documents missing or damaged. Accordingly, it is not clear from the complaint that the documents were contraband under the prison regulations.


Since St. Pierre set forth allegations sufficient to state a claim for compensation for the loss, damage, or destruction of his personal property by NDOC,¹⁶ we conclude that the district court erred in granting NDOC's motion to dismiss this claim. But because there is no dispute that St. Pierre's hearing aid had already been replaced by the time his complaint was filed, the district court properly dismissed as moot his claims with respect to the hearing aid.¹⁷ As a result, the district court's order is reversed as to the dismissal of St. Pierre's third claim, regarding

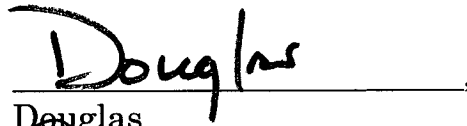
¹⁶See AR 711.03.

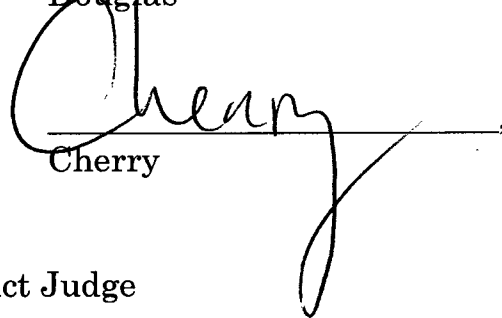
¹⁷See Marquis & Aurbach v. Dist. Ct., 122 Nev. ___, ___ n.32, 146 P.3d 1130, 1140 n.32 (2006) (citing University of Nevada v. Tarkanian, 95 Nev. 389, 394, 594 P.2d 1159, 1162 (1979) regarding mootness standards); Hampe, 118 Nev. 405, 47 P.3d 438 (holding that the district court properly dismissed a complaint alleging no facts that could form the basis for any relief).

the alleged loss, damage, and destruction of his medical documents, and remanded for further proceedings on that claim. The district court's order is affirmed as to the dismissal of all other claims.

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Dan L. Papez, District Judge
David E. St. Pierre
Attorney General Catherine Cortez Masto/Carson City
White Pine County Clerk