

IN THE SUPREME COURT OF THE STATE OF NEVADA

TIMOTHY H. JOHNSON,
Appellant,
vs.
NEVADA DEPARTMENT OF
CORRECTIONS,
Respondent.

No. 54162

FILED

DEC 04 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *J. Stoop*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order granting a motion to dismiss in a civil rights action. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.


Appellant Timothy H. Johnson is an inmate at Ely State Prison and earns \$20 a month from his employment at the prison. Johnson filed a district court complaint against respondent Nevada Department of Corrections alleging that respondent was unlawfully deducting a percentage of his wages for room and board and victim compensation. Specifically, Johnson contended that because he earned under \$65 per month in wages, respondent is prohibited from making those deductions. Respondent filed a motion to dismiss, under NRCP 12(b)(5), which was opposed by appellant and ultimately granted by the district court. Appellant, proceeding in proper person, appeals from the order granting the motion to dismiss.

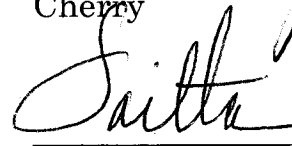
A party's complaint may be "dismissed only if it appears beyond a doubt that it could prove no set of facts, which, if true, would entitle it to relief." Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev.

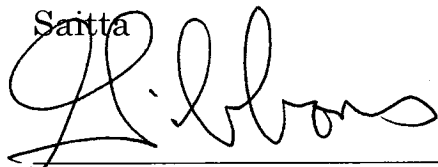
____, ____, 181 P.3d 670, 672 (2008). In determining whether a claim has been sufficiently stated to survive an NRCP 12(b)(5) motion to dismiss, all inferences must be construed in favor of the nonmoving party and all factual allegations in the complaint must be accepted as true. Id. This court reviews the district court's legal conclusions de novo. Id. Statutory interpretation is a question of law that is also reviewed de novo. Washoe Med. Ctr. v. Dist. Ct., 122 Nev. 1298, 1302, 148 P.3d 790, 792-93 (2006) (citing Beazer Homes Nevada, Inc. v. Dist. Ct., 120 Nev. 575, 579-80, 97 P.3d 1132, 1135 (2004)). Courts will not look beyond the statute's plain language when the statute is clear on its face. Id.

Having reviewed appellant's civil proper person appeal statement and the record on appeal, we conclude that the district court did not err in granting respondent's motion to dismiss based upon its interpretation of a clear and unambiguous statute and the regulations implementing the statute. NRS 209.461; NRS 209.463; NDOC AR 258.03; NDOC AR 258.06. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Steve L. Dobrescu, District Judge
Timothy H. Johnson
Attorney General Catherine Cortez Masto/Carson City
White Pine County Clerk