

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT HOLMES,  
Appellant,  
vs.  
BAIL BONDS UNLIMITED, INC.; AND  
JON FOSTER,  
Respondents.

No. 57055

FILED

NOV 21 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *A. Amersal*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing a civil rights action. Eighth Judicial District Court, Clark County; Doug Smith, Judge.

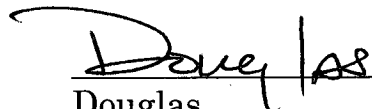
Appellant filed a district court complaint against respondents seeking relief under the Fifth and Fourteenth Amendments to the United States Constitution, alleging that respondents had improperly refused to return property that had been entrusted to them as collateral for appellant's bail bond. The district court dismissed the complaint for failure to state a claim upon which relief could be granted based on its conclusion that respondents were not subject to liability under these constitutional provisions because they were not state actors. See Brunette v. Humane Society of Ventura County, 294 F.3d 1205, 1209 (9th Cir. 2002) (explaining that "most rights secured by the Constitution are protected only against infringements by the government"). Indeed, respondents, who are a bail bond company and its owner, are private parties, rather than state actors. See Green v. Abony Bail Bond, 316 F. Supp. 2d 1254, 1257-58, 1260 (M.D. Fla. 2004) (concluding that bail bond companies and their employees are not state actors for the purpose of a 42 U.S.C. § 1983 civil rights action). Moreover, neither submitting to the jurisdiction of the court nor appointing the clerk of the court as an agent for service of process would serve to effectively transform a private party into a state

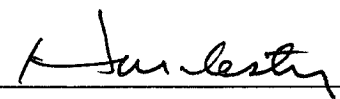
actor. See Brunette, 294 F.3d at 1209 (explaining that a private party may only be considered a state actor for imposing constitutional liability “where the private party engaged in state action under color of law”). Thus, the district court correctly concluded that appellant could not maintain his civil rights action against respondents.

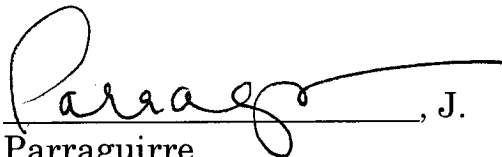
Finally, to the extent that appellant argues that respondents could have been liable apart from the constitutional amendments for failing to comply with the procedures set forth in NRS 178.514(1) and (2), we conclude that these provisions identify the procedure for the state to enforce a bond forfeiture, not the procedure by which a bail bond company could enforce a contractual right to withhold collateral. See NRS 178.514(1) and (2). Thus, NRS 178.514 also would not have independently provided appellant with any relief.

Accordingly, we conclude that the district court properly dismissed appellant’s action, see Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008) (explaining that this court rigorously reviews an NRCP 12(b)(5) dismissal, accepting all factual allegations as true and affirming the dismissal only if it appears beyond doubt that appellant “could prove no set of facts, which, if true, would entitled [him] to relief”), and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Doug Smith, District Judge  
Robert Holmes  
Chris T. Rasmussen  
Eighth District Court Clerk