

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVE PRATHER,
Appellant,
vs.
CLARK COUNTY TREASURER, A
NEVADA GOVERNMENT ENTITY;
AND LAURA B. FITZPATRICK,
Respondents.

No. 58844

FILED

JAN 17 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Ingelson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellant's complaint in a tort action. Eighth Judicial District Court, Clark County; Abbi Silver, Judge.

Appellant filed a complaint against the Clark County Treasurer as an entity, and Laura B. Fitzpatrick, the Clark County Treasurer, alleging "inequitable, unjust, and discriminatory" property tax assessments for a number of properties. Respondents filed a motion to dismiss, arguing, in part, that appellant failed to exhaust his administrative remedies by not seeking review first by the State Board of Equalization and named improper parties. Appellant failed to oppose the motion to dismiss, and the district court granted the motion.

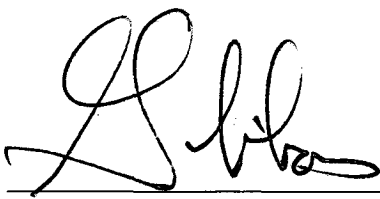
This court reviews de novo an order granting an NRCP 12(b)(5) motion to dismiss, accepting all factual allegations in the complaint as true and drawing all inferences in the plaintiff's favor. Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). We have reviewed the record and considered appellant's civil proper person appeal statement, and we conclude that dismissal was appropriate.

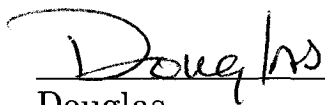
Appellant failed to exhaust his administrative remedies by failing to appeal the tax assessments to the county board of equalization

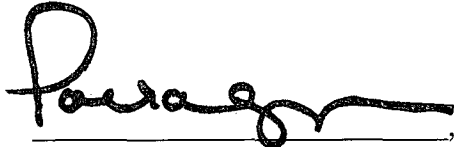
and then seek review by the State Board of Equalization prior to filing suit.¹ NRS 361.356(1); NRS 361.360(1); NRS 361.400; NRS 361.420(2). Appellant also improperly named respondents as parties. NRS 361.420(2) (specifying the entities that may be named as parties in a suit appealing denial of relief by the State Board of Equalization as the State, the county, the Nevada Tax Commission, and the Nevada Department of Taxation).

The district court additionally has discretion to dismiss a case based on a failure to oppose a motion to dismiss, as in this case. DCR 13(3); see Walls v. Brewster, 112 Nev. 175, 178, 912 P.2d 261, 263 (1996). Accordingly, we conclude that the district court did not err in dismissing the underlying action, and we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. Abbi Silver, District Judge
Dave Prather
Clark County District Attorney/Civil Division
Eighth District Court Clerk

¹The record also shows that neither appellant, nor the owners of the properties listed in the complaint, paid the property taxes on the properties under protest in writing, as is required by NRS 361.420(1) in order to seek relief from the State Board of Equalization.