

IN THE SUPREME COURT OF THE STATE OF NEVADA

LOUIS J. DECANIO,
Appellant,
vs.
MARK CANNON; ANTHONY L.
DEMEO; WILLIAM L. WELDON;
ROBERT S. BECKETT; AND NICHOLE
D. MCPHERSON,
Respondents.

No. 59744

FILED

MAR 13 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court summary judgment in a tort action. Fifth Judicial District Court, Nye County; James A. Brennan, Judge.

Appellant filed a complaint alleging various tort claims against respondents based on his arrest and the alleged mishandling of his prosecution. On appeal, appellant challenges an order dismissing the complaint as to respondent Robert S. Beckett, Nye County District Attorney, and an order granting summary judgment as to appellant's remaining claims.

Appellant argues that the district court erred in dismissing his complaint as to Beckett. 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 appellant's civil proper person appeal statement, and we conclude that the district court's dismissal of Beckett was appropriate.

The record on appeal shows that appellant failed to allege any specific action or inaction on the part of Beckett that would support any of appellant's tort claims. Even drawing all the inferences from the complaint in appellant's favor, appellant failed to include sufficient facts to demonstrate the necessary elements for any claim for relief against Beckett. *See W. States Constr., Inc. v. Michoff*, 108 Nev. 931, 936, 840 P.2d 1220, 1223 (1992) (explaining that a complaint must "set forth sufficient facts to demonstrate the necessary elements of a claim for relief so that the defending party has adequate notice of the nature of the claim and relief sought"). We therefore conclude that the district court did not err in dismissing the complaint as to Beckett.

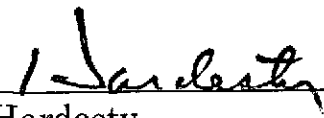
Appellant also challenges the district court's summary judgment in favor of the remaining respondents. This court reviews summary judgments de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is appropriate if the pleadings and other evidence on file, viewed in the light most favorable to the nonmoving party, demonstrate that no genuine issue of material fact remains in dispute and that the moving party is entitled to judgment as a matter of law. *Id.* To withstand summary judgment, the nonmoving party cannot rely solely on general allegations and conclusions set forth in the pleadings, but must instead present specific facts demonstrating the existence of a genuine factual issue supporting his claims. NRCP 56(e); *see also Wood*, 121 Nev. at 731, 121 P.3d at 1030-31.

Appellant's complaint alleged claims for malicious prosecution, false arrest and imprisonment, and defamation.¹ The existence of good faith and probable cause for an arrest invalidates a claim of unlawful arrest, false imprisonment, or malicious prosecution. *Pierson v. Ray*, 386 U.S. 547, 555 (1967); *see also Jordan v. Bailey*, 113 Nev. 1038, 1047, 944 P.2d 828, 834 (1997) (stating that want of probable cause to initiate the criminal proceeding is a required element of malicious prosecution). Respondents' motion for summary judgment included an affidavit from respondent Mark Cannon, the arresting officer, indicating that appellant's arrest was based on statements from three eyewitnesses who all stated that appellant pointed a gun at one of the witnesses, which appellant does not dispute. Respondents have therefore shown that Cannon had probable cause to arrest appellant, and thus, the district court did not err in granting summary judgment on appellant's unlawful arrest, malicious prosecution, and false imprisonment claims. *See Jordan*, 113 Nev. at 1047, 944 P.2d at 834 (holding that probable cause is judged by an objective test); *Hunter v. Bryant*, 502 U.S. 224, 228 (1991) (stating that probable cause exists if "at the moment the arrest was made . . . the facts and circumstances within their knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing" a crime had been committed (quoting *Beck v. Ohio*, 379 U.S. 89, 91 (1964))).

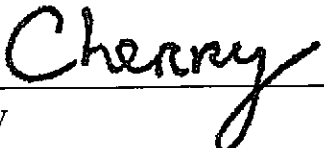
¹The complaint also alleged that respondents violated criminal statutes and negligently allowed appellant to be arrested and prosecuted. As these are not proper claims for a civil complaint, we affirm the district court's dismissal of these claims.

The district court also properly granted summary judgment as to appellant's defamation claim. The elements of defamation are "(1) a false and defamatory statement . . . ; (2) an unprivileged publication to a third person; (3) fault, amounting to at least negligence; and (4) actual or presumed damages." *Clark Cnty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 385, 213 P.3d 496, 503 (2009) (internal quotation marks omitted). Respondents argued in their motion that the newspaper article on which appellant's claim is based was not false, and thus, no false and defamatory statement could have been made to the newspaper by respondent Anthony DeMeo. Appellant provided no specific facts demonstrating the existence of a genuine factual issue supporting his defamation claim in his opposition to the motion for summary judgment or on appeal, and thus, the district court did not err in granting summary judgment on this claim. See NRCP 56(e); see also *Wood*, 121 Nev. at 731, 121 P.3d at 1030-31. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Hardesty


_____, J.
Douglas.


_____, J.
Cherry

²We have considered appellant's other arguments on appeal, and we conclude that those arguments lack merit and do not warrant reversal.

cc: Chief Judge, The Fifth Judicial District Court
Hon. James A. Brennan, Senior Judge
Louis J. DeCanio
Erickson Thorpe & Swainston, Ltd.
Nye County Clerk