

IN THE SUPREME COURT OF THE STATE OF NEVADA

JACK TEAGUE, AN INDIVIDUAL,
Appellant,
vs.
MELVIN D. STERTZ, AN INDIVIDUAL;
MATTHEW MROWCZYNSJU; ENERGY
AUTHORITY INTERNATIONAL, INC.;
AND ENERGY AUTHORITY
INTERNATIONAL LLC,
Respondents.

No. 62556

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 judgment in a corporations action. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

Appellant sued respondents for various causes of action related to the individual respondents' purported usurpation of corporate opportunities from respondent Energy Authority International, Inc., and the individual respondents' subsequent formation of Energy Authority International LLC. As the underlying case progressed, counsel for both appellant and respondents withdrew, and appellant and the individual respondents proceeded to a bench trial representing themselves. Before trial, the district court granted, in part, a motion to dismiss, limiting appellant's presentation of evidence to the evidence that had been disclosed in pretrial memoranda in accordance with EDCR 2.67 and NRCP 16.1(a)(3). The district court's order had the effect of excluding all of

appellant's documentary evidence, but did not preclude appellant from testifying on his own behalf or calling those witnesses identified in his pretrial memorandum. The district court also denied appellant's motion to continue the trial because the NRCP 41(e) five-year prosecution rule was about to expire. At trial, the individual parties each testified on their own behalf, but did not call other witnesses or attempt to present any other evidence. Following the conclusion of the trial, the district court found that the parties had each failed to present sufficient evidence to meet their respective burdens of proof and denied any of the relief sought in the complaint and counterclaims. This appeal followed.

On appeal, a district court's "findings of fact and conclusions of law, supported by substantial evidence, will not be set aside unless clearly erroneous." *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481, 486, 117 P.3d 219, 223 (2005) (quoting *Edwards Indus. v. DTE/BTE, Inc.*, 112 Nev. 1025, 1031, 923 P.2d 569, 573 (1996)). Here, appellant presented very limited evidence at the bench trial to support his claims, and our review of appellant's arguments and the record on appeal fails to demonstrate that the district court's determination that appellant did not meet his burden of proof with regard to his claims was clearly erroneous. *Id.* While appellant offers on appeal to provide evidence in support of his appellate arguments, the time for appellant to present any such evidence was at the bench trial; this court cannot receive new evidence not presented to the district court. *Carson Ready Mix, Inc. v. First Nat. Bank of Nev.*, 97 Nev. 474, 476-77, 635 P.2d 276, 277-78 (1981). Finally, to the extent that appellant challenges certain district court pretrial orders, we are not persuaded that the district court abused its discretion in entering

any of those orders. *Bongiovi v. Sullivan*, 122 Nev. 556, 569-70, 138 P.3d 433, 443-44 (2006). Accordingly, under the circumstances presented here, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Jack Teague
Spencer M. Judd
Eighth District Court Clerk