

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FELTON L. MATTHEWS, JR.,
Appellant,
vs.
LAS VEGAS JUSTICE COURT CLERK
DEPT. 7; T. PHARRIS; SGT. KIM;
WARDEN D. NEVEN; JAMES G. COX;
AND THE STATE OF NEVADA,
Respondents.

No. 68675

FILED

SEP 05 2016

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing an inmate litigation matter.¹ Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Appellant Felton L. Matthews, Jr., filed the underlying complaint alleging that respondents were liable to him for failing to file documents he submitted in connection with a small claims action for damage to his personal property, causing the damage to his property, and allowing Nevada Department of Corrections mailroom staff to mishandle

¹The record demonstrates that respondent Sgt. Shields was not served with process and did not appear in the underlying action, and thus, is not a proper party to this appeal. *See Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 448, 874 P.2d 729, 735 (1994) (explaining that a person who is not served and does not appear below is not a party to that action). Thus, the clerk of the court shall amend the caption for this case to conform to the caption on this order.

his legal mail. Over the course of the proceedings, Matthews filed multiple motions to add parties and otherwise amend the complaint, all of which were denied. Ultimately, the district court dismissed the underlying complaint for lack of jurisdiction because the value of Matthews' claims did not exceed \$10,000 and for failure to state a claim on which relief could be granted.

On appeal, Matthews argues his motions to amend were improperly denied because the proposed amendments were based on the same factual situation as the claims in his original complaint and there would not be prejudice to the proposed defendants as the claims had previously been grieved. Having considered the record and the parties' arguments, we conclude that the district court did not abuse its discretion by denying Matthews' various motions to amend his complaint. *See State, Univ. & Cmty. Coll. Sys. v. Sutton*, 120 Nev. 972, 988, 103 P.3d 8, 19 (2004) (reviewing a denial of a motion to amend for an abuse of discretion). In particular, our review of the various motions demonstrates that the amendments would have been futile insofar as they were either barred by the statute of limitations or failed to state a claim on which relief could be granted. *See Nutton v. Sunset Station, Inc.*, 131 Nev. ___, ___, 357 P.3d 966, 973 (Ct. App. 2015) (providing that the district court need not allow futile amendments).

With regard to the dismissal of the original complaint, Matthews argues the district court improperly concluded that he did not assert a claim for denial of access to the courts. Even if the second count of his complaint could have been construed as a denial-of-access claim, relief could not have been granted on it because Matthews alleged only that he was frustrated in an attempt to prosecute a small claims action

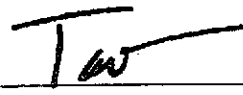
relating to damage to his personal property. *See Lewis v. Casey*, 518 U.S. 343, 354-55 (1996) (explaining that the actual injury element for a denial-of-access-to-courts claim requires an inmate to allege frustration of an attempt to prosecute a legal claim relating to the inmate's conviction or conditions of confinement). Thus, this claim was properly dismissed. *See id.*; *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008) (explaining that dismissal of a complaint is reviewed de novo).


Moreover, Matthews' assertions that prison mailroom staff opened his legal mail did not state a legal claim, as the only mail that he identified was sent to or received from the courts, as opposed to communications involving a legal representative. *See Nevada Department of Corrections Administrative Regulation (NDOC AR) 722.08(7)* (providing that outgoing "legal mail must be addressed to an attorney or legal representative"); *NDOC AR 722.09(5)* (explaining that "[i]ncoming correspondence will be treated as legal mail only if the envelope clearly identifies an attorney, legal representative, or other privileged correspondent in the return address"); *see also Keenan v. Hall*, 83 F.3d 1083, 1094 (9th Cir. 1996) ("Mail from the courts, as contrasted to mail from a prisoner's lawyer, is not legal mail."). Finally, to the extent Matthews sought compensation for damage to his personal property, the district court properly concluded that it lacked jurisdiction over such a claim. *See Nev. Const. art. 6, § 6* (providing that the district courts do not have original jurisdiction over actions that fall within the original jurisdiction of the justice courts); *NRS 4.370(1)(b)* (providing that the justice courts have original jurisdiction over actions for damage to personal property "if the damage claimed does not exceed \$10,000").

Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Susan Johnson, District Judge
Felton L. Matthews, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²We have reviewed Matthews' remaining appellate arguments and conclude that they lack merit or are otherwise not properly before us. We deny Matthews' request, made in his reply to respondents' response on appeal, to strike statements in the response. To the extent the response included statements that were not relevant to the issues on appeal, we did not consider those statements in reaching our decision. Finally, we deny Matthews' June 20, 2016, motion for remand, as well as any other pending requests for relief filed in this appeal.