

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DASHAUN WRIGHT,
Appellant,
vs.
ELY STATE PRISON; WILLIAM
GEITTERS; HAROLD BYRNE; APRIL
WEITTERS; MICHAEL SHARP; DAWN
JONES; RONALD BRYANT; SCOTT
MANNING; T. BURLEIGH; W. MOORE;
C.O. ESCAMILLO,¹
Respondents.

No. 73085

FILED

MAR 28 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY DEPUTY CLERK

ORDER OF AFFIRMANCE

Dashaun Wright appeals from a district court order dismissing a civil rights action. Seventh Judicial District Court, White Pine County; Gary Fairman, Judge.

Wright contends that respondents violated his First, Fourth, Eighth, Thirteenth, and Fourteenth Amendment rights by engaging in a "scheme operation" causing him damages. The district court dismissed Wright's underlying civil rights complaint for failure to state a claim on which relief could be granted and this appeal followed. Having considered the record and Wright's informal brief, we conclude that the district court did not err in dismissing the instant action.

First, to the extent Wright has named a state agency and various state officials acting in their official capacities, his civil rights complaint pursuant to 42 U.S.C. § 1983 fails. As relevant here, "neither states nor their officials acting in their official capacities are persons under

¹We direct the clerk of the court to amend the caption for this case to conform to the caption on this order.

42 U.S.C. § 1983 and therefore neither may be sued in state courts under the federal civil rights statutes.” See *N. Nev. Ass’n of Injured Workers v. Nev. State Indus. Ins. Sys.*, 107 Nev. 108, 114, 807 P.2d 728, 732 (1991) (citing *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 (1989)).

With regard to Wright’s remaining claims against certain respondents in their individual capacities, the district court provided Wright with an opportunity to demonstrate an arguable basis for his complaint in law or in fact, and Wright filed his supplemental points and authorities, reiterating his allegations that respondents irreparably injured him by engaging in a “scheme operation.” Following its review of the complaint and supplemental points and authorities, the district court concluded that Wright’s complaint failed to allege any facts at all to support his claims; thus, the district court concluded that the complaint failed to state a claim upon which relief could be granted and dismissed the complaint. The district court also concluded that the complaint was frivolous and was brought without a proper purpose, and advised Wright that filing future documents for an improper purpose would result in possible filing restrictions.


Based on our review of the record, we agree that, even taking Wright’s allegations as true, his complaint fails to state a claim upon which relief can be granted. See *State v. Eighth Judicial Dist. Court (Anzalone)*, 118 Nev. 140, 153, 42 P.3d 233, 241 (2002) (providing that, to prevail on a civil rights complaint pursuant to 42 U.S.C. § 1983, a plaintiff must prove that the alleged conduct, as relevant here, “deprived the plaintiff of rights, privileges, or immunities secured by the Constitution or laws of the United States.”). Moreover, based on our conclusion that Wright’s complaint fails to state a claim, we cannot say the district court abused its discretion in

concluding that the complaint was frivolous. *See Jordan v. State ex rel Dep't of Motor Vehicles & Pub. Safety*, 121 Nev. 44, 56, 110 P.3d 30, 40 (2005) (recognizing that NRCP 11 permits a district court to sua sponte dismiss a frivolous complaint after giving the plaintiff notice and an opportunity to oppose the dismissal), *abrogated on other grounds by Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 181 P.3d 670 (2008).

Further, on appeal, Wright has failed to offer any cogent argument as to how the district court erred in concluding that the complaint fails to allege any facts to support Wright's general allegations. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (concluding that this court need not consider claims that are not cogently argued). Accordingly, we affirm the district court's dismissal of Wright's complaint.

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Gary Fairman, District Judge
Dashaun Wright
Attorney General/Carson City
White Pine County Clerk