

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN MICHAEL DUNN,
Appellant,
vs.
CLARK COUNTY DISTRICT
ATTORNEY'S OFFICE,
Respondent.

No. 72431

FILED

NOV 27 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

John Michael Dunn appeals from a district court order dismissing his civil rights complaint. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

Dunn filed a civil rights complaint against respondent, the Clark County District Attorney's Office, and the district attorney's office subsequently filed a motion to dismiss arguing, among other things, that the office is not a suable entity. The district court granted the motion, apparently on the basis that no opposition had been filed, and this appeal followed.


Preliminarily, contrary to the district court's order, Dunn did submit an opposition to the motion to dismiss, which was received by the district court prior to the hearing on the motion, but was not filed until after the hearing. Nonetheless, it is well established that the appellate courts will affirm a district court's decision if it reaches the right result, but does so for the wrong reason. *See Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010). Below, the district attorney's office sought to dismiss Dunn's complaint on multiple grounds, including on the basis that it was not a suable entity. But even if the district court had

considered Dunn's opposition, this document failed to address whether the district attorney's office is a suable entity. And while Dunn attempts to address this issue on appeal, his arguments on this point are not properly before us, as they are raised for the first time on appeal. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal.").

Moreover, even if Dunn had opposed the motion to dismiss as to this issue, any such argument would fail on the merits. Notably, in *Wayment v. Holmes*, the Nevada Supreme Court concluded that a county district attorney's office was not a suable entity because it is a department of the county, not a political subdivision. 112 Nev. 232, 237-38, 912 P.2d 816, 819 (1996). Thus, because the district attorney's office is not a suable entity, the district court's dismissal of the complaint against the office would be proper. Accordingly, we affirm the district court's order dismissing Dunn's underlying complaint.

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Mark R. Denton, District Judge
John Michael Dunn
Clark County District Attorney/Civil Division
Eighth District Court Clerk