

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BLAKE ANDERSON,  
Appellant,  
vs.  
CLARK COUNTY PUBLIC  
DEFENDER'S OFFICE; PATRICIA  
DENISE DOYLE; AND PHILIP J.  
KOHN,  
Respondents.<sup>1</sup>

No. 75295-COA

FILED

DEC 20 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Blake Anderson appeals a district court order dismissing a civil action. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

Anderson filed a complaint against respondents alleging several state tort claims arising out of his legal representation in a criminal matter. Specifically, Anderson asserts that respondent Patricia Doyle was appointed, in her capacity as a Clark County Public Defender, to represent Anderson in his unrelated criminal matter. After her appointment, she discovered the public defender's office had a conflict based on its representation of the alleged victim in Anderson's case. Anderson contends that Doyle was appointed in April 2016 and failed to withdraw from his case

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<sup>1</sup>The record demonstrates that the State of Nevada did not appear in the underlying action, and is therefore not a proper party to this appeal. *See Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 448, 874 P.2d 729, 735 (1994). Thus, the clerk of the court shall amend the caption for this case to conform to the caption on this order.

for more than a year,<sup>2</sup> that she knew or should have known of the conflict immediately, and that her failure to timely withdraw caused him injuries. The district court dismissed the complaint, concluding that respondent Clark County Public Defender's Office is not a suable entity and that, as to the individual respondents, Anderson's causes of action have not yet accrued and, therefore, he cannot show causation. Additionally, as to Anderson's constitutional claims, the court concluded that the Clark County Public Defender's Office is not a proper party and that the individual respondents cannot be held liable for their conduct as appointed defense counsel pursuant to 42 U.S.C. § 1983. This appeal followed.

This court reviews a district court's order granting a motion to dismiss de novo. *Munda v. Summerlin Life & Health Ins. Co.*, 127 Nev. 918, 923, 267 P.3d 771, 774 (2011). An order granting a motion to dismiss is rigorously reviewed on appeal with all alleged facts in the complaint presumed true and all inferences drawn in favor of the complainant. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008).

On appeal, Anderson appears to challenge the district court's conclusion that his claims had not yet accrued, but only asserts that "proximate cause can be immediately before or after very near or close in time or space." However, the district court concluded that Anderson could not show proximate cause because his claims had not yet accrued. See *Morgano v. Smith*, 110 Nev. 1025, 1028-30, 879 P.2d 735, 737-38 (1994) (concluding that a plaintiff must plead that he obtained appellate or post-

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<sup>2</sup>Contrary to Anderson's allegation, the record indicates that Doyle filed her motion to withdraw on November 21, 2016, and the same was granted on November 28, 2016.

conviction relief to overcome a motion to dismiss in cases such as this). Because Anderson fails to make any cogent argument addressing the grounds relied on by the district court in dismissing his complaint, he has waived any such challenge and we necessarily affirm the district court's order.<sup>3</sup> See *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) ("Issues not raised in an appellant's opening brief are deemed waived.").

Accordingly, we

ORDER the judgment of the district court AFFIRMED.



Silver

C.J.



Tao

J.



Gibbons

J.

cc: Hon. Timothy C. Williams, District Judge  
Blake Lawrence Anderson  
Attorney General/Carson City  
Clark County District Attorney/Civil Division  
Eighth District Court Clerk

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<sup>3</sup>Anderson also asserts that he sufficiently stated his claims pursuant to NRCP 8(a), such that respondents received adequate notice of the nature of his claims for relief. Because the district court did not dismiss the complaint on this basis, this argument does not warrant relief.