

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FELTON L. MATTHEWS, JR.,
Appellant,
vs.
THE STATE OF NEVADA; NDOC;
NVAG; AND CLARK COUNTY
COMMISSIONERS,
Respondents.

No. 75315-COA

FILED

DEC 20 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Felton L. Matthews, Jr. appeals from a district court order dismissing a civil rights complaint. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

Matthews filed a civil rights complaint against respondents alleging three counts. Respondents moved to dismiss pursuant to NRCP 12(b)(5), which the district court granted over Matthews' opposition. This appeal followed.

An order granting an NRCP 12(b)(5) motion to dismiss is reviewed de novo. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). A decision to dismiss a complaint under NRCP 12(b)(5) is rigorously reviewed on appeal with all alleged facts in the complaint presumed true and all inferences drawn in favor of the plaintiff. *Id.* Dismissing a complaint is appropriate "only if it appears beyond a doubt

that [the plaintiff] could prove no set of facts, which, if true, would entitle [the plaintiff] to relief.” *Id.* at 228, 181 P.3d at 672.

In count one of his complaint, Matthews alleged due process and equal protection violations related to allegedly incorrect information contained in his presentence investigation report (PSI) and further alleged that this incorrect information will be relied on by the parole board, decreasing his likelihood of parole. He sought injunctive and declaratory relief. But challenges to the accuracy of the PSI must be made at or before sentencing or, if not resolved in the defendant’s favor, on direct appeal after sentencing. *See Stockmeier v. State, Bd. of Parole Comm’rs*, 127 Nev. 243, 245, 255 P.3d 209, 211 (2011). And the fact that Matthews seeks injunctive and declaratory relief rather than actual changes to his PSI does not change the outcome, as the plaintiff in *Stockmeier* likewise sought injunctive and declaratory relief prohibiting the parole board from relying on allegedly inaccurate information in his PSI and that court found that the board was entitled to rely on the PSI. *See id.* at 252, 255 P.3d at 215.

Moreover, to the extent Matthews attempts to challenge the dismissal of counts two and three of his complaint, he has failed to provide any cogent argument to support his challenge and therefore, this court need not address it. *See Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues that are not supported by cogent argument). Therefore, Matthews has failed to state

a claim upon which relief can be granted. See *Buzz Stew*, 124 Nev. at 228, 181 P.3d at 672. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹



Silver

C.J.



Tao

J.



Gibbons

J.

cc: Hon. Timothy C. Williams, District Judge
Felton L. Matthews, Jr.
Attorney General/Carson City
Attorney General/Las Vegas
Clark County District Attorney
Clark County District Attorney/Civil Division
Eighth District Court Clerk

¹The remaining arguments and requests for relief raised by Matthews, either in his appellate brief or other filings, do not provide a basis for relief and/or are moot in light our decision herein.