

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

No. 77537-COA

IN THE MATTER OF THE  
APPLICATION OF CHRISTOPHER  
LOWRY, FOR CHANGE OF NAME.

CHRISTOPHER LOWRY,  
Appellant.

**FILED**

APR 26 2019

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

*ORDER OF AFFIRMANCE*

Christopher Lowry appeals from a district court order denying his petition for a name change. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

Lowry, an inmate, petitioned to change his name to Dominic Vito Giambatista Billini, vaguely citing religion as the basis for the name change. But the district court denied Lowry's petition, concluding, among other things, that he failed to publish notice of the petition in a newspaper as required by NRS 41.280(1).<sup>1</sup> This appeal followed.

On appeal, Lowry does not dispute that he failed to publish notice of his petition in a newspaper as required by NRS 41.280(1), but instead, asserts that he contacted the district court clerk for instructions on

<sup>1</sup>After Lowry filed his petition, NRS 41.280 was amended twice, see 2017 Nev. Stat., ch. 107, § 1, at 472 (effective May 24, 2017); 2017 Nev. Stat., ch. 132, § 2, at 607-08 (effective July 1, 2017), but those amendments do not affect the disposition of this appeal.

how to provide notice of his petition, and that the clerk improperly responded by sending him a copy of the rule “on [serving] a defendant.” But Lowry seemingly did not provide any documentation regarding this response to the district court as no such documents appear in the record for this court’s review.<sup>2</sup> See *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (noting that it is appellant’s burden to ensure that a proper appellate record is prepared and that, if the appellant fails to do so, “we necessarily presume that the missing [documents] support[ ] the district court’s decision”). And regardless of his efforts to obtain assistance from the district court clerk, Lowry was required to comply with applicable statutes and court rules despite his pro se status. See *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. \_\_\_, \_\_\_, 428 P.3d 255, 258-59 (2018) (noting that procedural rules cannot be applied differently to pro se litigants and that “a pro se litigant cannot use his alleged ignorance as a shield to protect him from the consequences of failing to comply with basic procedural requirements”).

Insofar as Lowry nevertheless challenges the denial of his petition on the ground that NRS 41.280 is inconsistent with the First Amendment, see *Malik v. Brown*, 16 F.3d 330, 333 (9th Cir. 1994) (recognizing that the adoption of a religious name “is an exercise of religious freedom”), we decline to consider that challenge, as Lowry failed to support it with cogent argument. 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


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<sup>2</sup>To the extent that Lowry’s docketing statement includes documents that were not part of the pre-appeal district court record, we did not consider them. See *Carson Ready Mix, Inc. v. First Nat’l Bank of Nev.*, 97 Nev. 474, 476, 635 P.2d 276, 277 (1981) (providing that the appellate courts cannot consider materials that are not a proper part of the record on appeal).

that are not supported by cogent argument). Indeed, Lowry failed to address whether NRS 41.280's notice requirement is narrowly tailored to achieve a compelling governmental interest, which is the standard for determining whether the requirement placed a permissible burden on his exercise of religious beliefs. *Hernandez v. Comm'r of Internal Revenue*, 490 U.S. 680, 699 (1989) ("The free exercise inquiry asks whether government has placed a substantial burden on the observation of a central religious belief or practice and, if so, whether a compelling governmental interest justifies the burden."). Thus, given the foregoing, Lowry failed to demonstrate that the district court improperly denied his name change petition based on NRS 41.280(1).<sup>3</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Jim C. Shirley, District Judge  
Christopher Lowry  
Pershing County Clerk

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<sup>3</sup>Given our disposition of this appeal, we need not address Lowry's arguments regarding whether NRS 179.245(1) prevented the district court from granting his petition. We have considered Lowry's remaining arguments and conclude that they do not provide a basis for relief.