

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANNY TAYLOR,  
Appellant,

vs.

THE STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS;  
SERGEANT GENTRY; AARON  
HARROUN; RICHARD WEIRSMA; AND  
ROBERT LEGRAND,  
Respondents.

No. 72981

**FILED**

MAY 09 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER AFFIRMING IN PART, REVERSING IN PART AND  
REMANDING*

Danny Taylor appeals a district court order granting summary judgment in a civil action. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

Taylor, an inmate, filed a complaint that contends respondents violated numerous Nevada Revised Statutes, Nevada Department of Corrections (NDOC) administrative regulations, and the Nevada Constitution by retaliating against him for exercising his constitutional rights under the Nevada Constitution. Specifically, Taylor alleges that respondents violated the terms of a settlement agreement entered in an unrelated federal case and when Taylor complained that the settlement agreement was not being followed, and informed NDOC staff that he would advise the Nevada Attorney General's office of the same, respondents retaliated against him by improperly placing him in administrative segregation. Below, the district court granted summary judgment in favor of respondents on Taylor's complaint and this appeal followed.

This court reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026,

18-900961

1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.*

Here, although Taylor cites to a variety of rules, statutes and other authorities, ultimately, he alleges that he was injured as a result of NDOC's wrongful, retaliatory conduct. Indeed, throughout the proceedings Taylor insisted that his claim was based in tort and was not a civil rights complaint pursuant to 42 U.S.C. § 1983. Thus, we construe his complaint as alleging a state tort claim pursuant to NRS 41.0322. *See Liston v. Las Vegas Metro. Police Dep't*, 111 Nev. 1575, 1578, 908 P.2d 720, 723 (1995) (“[a] plaintiff who fails to use the precise legalese in describing his grievance but who sets forth the facts which support his complaint thus satisfies the requisites of notice pleading”); *State Farm Mut. Auto. Ins. Co. v. Wharton*, 88 Nev. 183, 186, 495 P.2d 359, 361 (1972) (“it is the nature of the grievance rather than the form of the pleadings that determines the character of the action” (quoting *Auto. Ins. Co. v. Union Oil Co. of Cal.*, 85 Cal. App. 2d 302, 306, 193 P.2d 48, 50 (1948))).

Pursuant to NRS 41.0322, to proceed with a civil action against NDOC, inmates must first exhaust their administrative remedies as provided by NRS 209.243 and NDOC's regulations. NRS 41.0322(1); *Abarra v. State*, 131 Nev. 20, 23, 342 P.3d 994, 996 (2015). In this regard, respondent's only argument supporting summary judgment on Taylor's tort claim is that Taylor failed to exhaust his administrative remedies because he did not sufficiently plead his tort claim in his informal level grievance. However, “a grievance need not include legal terminology or legal theories,

nor does it need to contain every fact necessary to prove each element of an eventual legal claim.” *Abarra*, 131 Nev. at 23, 342 P.3d at 996 (internal quotations omitted). And the NDOC “grievance procedures do not require more than the underlying facts, and they do not require a separate grievance for each legal theory.” *Id.* at 23-24, 342 P.3d at 996. Our review of the record indicates that Taylor’s grievances set forth the facts upon which his complaint is based—that he was improperly sent to administrative segregation after he complained that the terms of his settlement agreement were not being met and that he suffered damages as a result. Thus, Taylor did exhaust his administrative remedies with regard to his tort claim. *See id.*

Having concluded that Taylor properly exhausted his administrative remedies, summary judgment was only appropriate if there were no genuine issues of material fact regarding his tort claim. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029. Construing the pleadings and evidence in the light most favorable to Taylor, a reasonable person could conclude that respondents placing Taylor in administrative segregation in response to Taylor’s assertion that he would contact the Nevada Attorney General’s office to complain that the terms of his settlement agreement were not being met, was retaliatory rather than a response to a purported security threat. Thus, it appears that genuine issue of material fact remain, such that summary judgment on Taylor’s tort claim was improper. *See id.*; *Angel v. Cruse*, 130 Nev. 220, 226-28, 321 P.3d 895, 899-900 (2014).

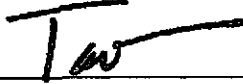
To the extent Taylor’s complaint asserts any other causes of action based on an alleged violation of the Nevada Revised Statutes, NDOC administrative regulations, or his settlement agreement in the unrelated federal case, he fails to provide any cogent argument as to how these alleged


violations give rise to a civil cause of action. *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). Therefore, we affirm the district court's grant of summary judgment in that regard. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029.

Accordingly, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.

  
\_\_\_\_\_, C.J.  
Silver

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

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

cc: Hon. Jim C. Shirley, District Judge  
Danny Taylor  
Attorney General/Carson City  
Attorney General/Las Vegas  
Pershing County Clerk