

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONALD DENNIS FERLINGERE,
Appellant,
vs.
MA IMEE BURKHOLDER; AND
TIMOTHY BURKHOLDER,
Respondents.

No. 69125

FILED

MAR 29 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing a civil action. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Appellant filed the underlying complaint against respondents. Respondents moved to dismiss the action, and the district court granted that motion, finding that the complaint presented a conversion claim that was previously resolved in a judgment by the Third Judicial District Court. Thus, the district court concluded that the conversion claim was an improper collateral attack on the prior judgment. *See Rohlfiing v. Second Judicial Dist. Court*, 106 Nev. 902, 906, 803 P.2d 659, 662 (1990) ("The district courts of this state have equal and coextensive jurisdiction; therefore, the various district courts lack jurisdiction to review the acts of other district courts."). The district court also found that the remainder of the complaint failed to state a claim on which relief could be granted. This appeal followed.

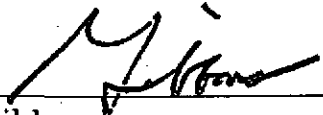
On appeal, appellant contends that the conversion claim was not an improper collateral attack on the prior judgment because he presented new evidence in the underlying proceeding. But new evidence

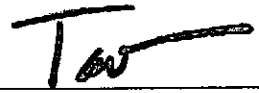
does not provide a basis to collaterally attack a district court judgment. *See State v. Sustacha*, 108 Nev. 223, 226 n.3, 826 P.2d 959, 961 n.3 (1992) (explaining that a district court's judgment generally is not subject to collateral attack unless the district court lacked personal or subject matter jurisdiction). As appellant does not otherwise challenge the district court's conclusion that his conversion claim constituted an improper collateral attack, we affirm the dismissal of that claim for lack of subject matter jurisdiction. *See id.*; *Rohlfing*, 106 Nev. at 906, 803 P.2d at 662.

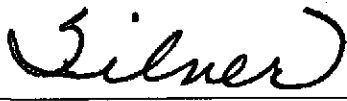
To the extent that appellant's arguments on appeal could be construed as challenging the district court's conclusion that the remainder of the complaint failed to state a claim, we conclude that the allegations in the complaint were "insufficient to establish the elements of a claim for relief." *See Stockmeier v. Nev. Dep't of Corr. Psychological Review Panel*, 124 Nev. 313, 316, 183 P.3d 133, 135 (2008) (internal quotation marks omitted). In particular, although appellant argues that he sent respondents an "affidavit of truth," and that they failed to respond to that document or other documents he sent them, no Nevada law or court rule imposes a duty to respond to the documents referenced by appellant. Nor does appellant identify any factual allegations in his complaint that would have given respondents "fair notice of the nature and basis of a legally sufficient claim," and our review of the complaint does not reveal any such allegations. *See Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 846, 858 P.2d 1258, 1260 (1993). Thus, we affirm the district court's order dismissing the complaint under NRCP 12(b)(5). *See Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227, 181 P.3d 670, 672 (2008)

(explaining that appellate courts rigorously review orders dismissing claims under NRCP 12(b)(5)).¹

It is so ORDERED


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Janet J. Berry, District Judge
Ronald Dennis Ferlingere
John Lee Carrico, Jr.
Washoe District Court Clerk

¹To the extent that appellant asserts that the district court improperly relied on testimony from respondents' counsel in dismissing his complaint, our review of the record reveals that no testimony was given during the underlying proceedings.