


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN ELVIN TURNER,
Appellant,
vs.
CATHOLIC CHARITIES OF
SOUTHERN NEVADA; AND ST.
VINCENT APARTMENTS,
Respondents.

No. 76015-COA

FILED

OCT 24 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

John Elvin Turner appeals from a district court order dismissing his case.¹ Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

Following Turner's appeal of an initial dismissal of his underlying complaint, the Nevada Supreme Court entered an order of limited remand to allow the district court to rule on Turner's motion for relief from the initial dismissal order. Thereafter, the district court granted the motion and Turner subsequently filed an amended complaint. Respondents Catholic Charities of Southern Nevada and St. Vincent Apartments later moved to dismiss the amended complaint, and the district court granted the motion over Turner's opposition. The supreme court then entered an order allowing the appeal to proceed as to the dismissal order entered on remand and Turner filed a new opening brief regarding that

¹The original caption for this matter included several individuals, identified only by their first names, who are not parties to this appeal. As a result, the clerk of this court shall amend the caption for this case to conform to the caption on this order.

order. On appeal, we review an order granting an NRCP 12(b)(5) motion to dismiss de novo. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008).

In the order entered on remand, the district court dismissed Turner's amended complaint on the basis that it improperly asserted constitutional claims against private parties, rendering those claims "incurably defective." See, e.g., *Flagg Bros. v. Brooks*, 436 U.S. 149, 156 (1978) (providing that "most rights secured by the Constitution are protected only against infringement by" state actors and that "[a]lthough a private person may cause a deprivation of [a constitutional] right, he may be subjected to liability under [42 U.S.C.] § 1983 only when he does so under color of law."). In particular, the court noted that none of the conduct outlined in the amended complaint could be attributed to state actors, such that Turner's constitutional claims failed as a matter of law. The district court further noted that, to the extent Turner's opposition to the motion to dismiss expressed a belief that he had pleaded a state law fraud claim, no such claim was included in the complaint. Nonetheless, to the extent Turner intended to include such a claim, it was dismissed as inadequately pleaded.


On appeal, Turner's informal brief presents no arguments regarding the grounds cited by the district court as supporting the dismissal of his amended complaint. As a result, Turner has waived any challenge to these determinations.² See *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev.

²While Turner's April 15, 2019, filing contains a brief statement that seems to assert that respondents engaged in a "conspiracy with state officials" to violate his constitutional rights, he fails to develop this point or offer any cogent argument regarding this statement, and thus, we do not

156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that “[i]ssues not raised in an appellant’s opening brief are deemed waived”). While Turner provides various arguments regarding alleged improprieties in the handling of the proceedings below, our review of these arguments and the record on appeal demonstrates that they do not provide a basis for relief. As a result, Turner has failed to demonstrate that the district court erred in dismissing his amended complaint, *Buzz Stew*, 124 Nev. at 227-28, 181 P.3d at 672, and we therefore

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Kathleen E. Delaney, District Judge
John Elvin Turner
Lewis Roca Rothgerber Christie LLP/Las Vegas
Eighth District Court Clerk

consider this assertion. *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).

³In light of our resolution of this matter, we deny as moot all requests for relief currently pending in this appeal.