IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JASON JONES,
Appellant,
vs.
THE EXECUTIVE DEPARTMENT OF THE STATE OF NEVADA; GOVERNOR BRIAN SANDOVAL, AND FORMER GOVERNORS; STEVEN WOLFSON, CLARK COUNTY DISTRICT ATTORNEY; ATTORNEY GENERAL OF THE STATE OF NEVADA ADAM LAXALT; THE LEGISLATURE OF THE STATE OF NEVADA; PATRICIA "PAT" SPEARMAN; MOISES "MD" DENIS; "TICK" SEGERBLOM; KELVIN ATKINSON; JOYCE WOODHOUSE; NICOLE CANNIZZARO; DAVID PARKS; PATRICIA FARLEY; BECKY HARRIS; YVANNA D. CANCELA; AARON D. FORD; JOSEPH "JOE" P. HARDY, M.D.; JULIA RATTI; DON GUSTAVSON; HEIDI S. GANSERT; BEN KIECKHEFER; JAMES A. SETTLEMEYER; SCOTT T. HAMMOND; PETE GOICOECHEA; MICHAEL ROBERSON; MARK A. MANENDO; DANIELE MONROE-MORENDO; JOHN HAMBRICK; NELSON ARAUJO, JR.; RICHARD MCARTHUR; BRITTNEY MILLER; WILLIAM MCCURDY, II; DINA NEAL; JASON FRIERSON; STEVE YEAGER; CHRIS BROOKS; OLIVIA DIAZ; JAMES OHRENCHALL; PAUL ANDERSON; MAGGIE CARLTON; ELLIOT ANDERSON; HEIDI SWANK; TYRONE

No. 78131-COA

19-52279

THOMPSON; RICHARD A. CARRILLO; CHRIS EDWARDS; ELLEN SPIEGEL; OZZIE FUMO; KEITH PICKARD; MELISSA A. WOODBURY; AMBER JOINER; JILL TOLLES; LISA KRASNER; TERESA BENITZ-THOMPSON; EDGAR FLORES; LESLEY ELIZABETH COHEN; MICHAEL SPRINKLE; RICHARD "SKIP" DAY; IRA HANSEN; JOHN ELLISON; SHANNON BILBRAY-AXELROD; JUSTIN WATKINS; JAMES OSCARSON; JIM MARCHANT; ROBIN L. TITUS; JIM WHEELER; AL KRAMER; SANDRA JAUREGUI; IRENE BUSTAMENTE ADAMS; AND PAST LEGISLATURES; THE JUDICIAL DEPARTMENT OF THE STATE OF NEVADA; THE SUPREME COURT OF THE STATE OF NEVADA; THE COURT OF APPEALS OF THE STATE OF NEVADA; JUDGE JUSTICES RON PARRAGUIRRE; JAMES W. HARDESTY; MICHAEL L. DOUGLAS; MICHAEL A. CHERRY; MARK GIBBONS; KRISTINA PICKERING; LIDIA STIGLICH; MICHAEL GIBBONS; JEROME TAO; AND ABBI SILVER, AND PAST JUDGES AND JUSTICES OF THE SUPREME COURT OF THE STATE OF NEVADA, THE STATE OF NEVADA EX REL, REAL PARTIES IN INTEREST,
Respondents.

ORDER OF AFFIRMANCE

Jason Jones appeals from a district court order dismissing his complaint in an inmate litigation matter. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

In a complaint and demand for jury trial filed on June 8, 2018, Jones claimed the 1951 enactment of Senate Bill No. 182 was unconstitutional because it allowed Nevada Supreme Court justices to sit on the Commission for Revision and Compilation of Nevada Laws. Jones reasoned the Nevada Revised Statutes (NRS) have been invalid since 1951 and all criminal convictions obtained since that time are unconstitutional. And Jones asked the district court to declare Senate Bill No. 182 presumptively and facially unconstitutional and to enjoin the respondents and their officers, employees, and agents from enforcing laws derived from Senate Bill No. 182.

Respondents filed a motion to dismiss the complaint pursuant to NRCP 12(b)(5).[1] Respondents argued that Jones' petition should be dismissed with prejudice for the following reasons: He lacked standing to challenge the constitutionality of the NRS. The Laws of Nevada are

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[1]On December 31, 2018, the Nevada Supreme Court amended the Nevada Rules of Civil Procedure, effective March 1, 2019. *See In re Creating a Comm. to Update & Revise the Nev. Rules of Civil Procedure*, ADKT. 0522 (Order Amending the Rules of Civil Procedure, the Rules of Appellate Procedure, and the Nevada Electronic Filing and Conversion Rules, December 31, 2018). But those amendments do not affect the disposition of this appeal, as they became effective after the district court granted respondents' motion to dismiss.

contained within the Statutes of Nevada and not the NRS. Courts have consistently rejected the argument that the NRS are void because Nevada Supreme Court justices sat on the Commission for Revision and Compilation of Nevada Laws. And Jones can only challenge the validity of his judgment of conviction through a petition for a writ of habeas corpus.

Although Jones failed to oppose that motion, the district court proceeded to address respondents' arguments on the merits concluding, among other things, that Jones lacked standing to challenge the validity of the NRS. As a result, the district court granted respondents' motion and dismissed Jones' case. Jones now argues on appeal that the district court erred by dismissing his complaint for lack of standing and that the court should have treated respondents' motion as one for summary judgment. Moreover, Jones contends that, before ruling on respondents' motion, the district court should have established a scheduling order, allowed for discovery, and permitted his complaint to be amended.

"We rigorously review a district court order granting an NRCP 12(b)(5) motion to dismiss, accepting all of the plaintiff's factual allegations as true and drawing every reasonable inference in the plaintiff's favor to determine whether the allegations are sufficient to state a claim for relief." *Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 256, 321 P.3d 912, 914 (2014) (citing *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008)). "A complaint should be dismissed for failure to state a claim '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.* (alteration in original) (quoting *Buzz Stew*, 124 Nev. at 228, 181 P.3d at 672). We review the district court's legal conclusions de novo. *Id.*

We review the dismissal of a complaint for lack of standing under the same rigorous, de novo standard as dismissal for failure to state a claim upon which relief may be granted. *See Citizens for Cold Springs v. City of Reno*, 125 Nev. 625, 629, 218 P.3d 847, 850 (2009); *see also Shoen v. SAC Holding Corp.*, 122 Nev. 621, 634, 137 P.3d 1171, 1180 (2006) (observing that dismissing a complaint for failure to state a claim upon which relief may be granted is justified when the plaintiff lacks standing). To establish standing, a plaintiff must show the occurrence of an injury that is "special," "peculiar," or "personal" to him and not merely a generalized grievance shared by all members of the public, *Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894 (2016), or that the Legislature provided the people of Nevada with a statutory right that gives the plaintiff standing to sue, *Stockmeier v. Nev. Dep't of Corrections Psychological Review Panel*, 122 Nev. 385, 393, 135 P.3d 220, 226 (2006), *overruled on other grounds by Buzz Stew*, 124 Nev. at 228 n.6, 181 P.3d at 672 n.6.

Jones alleged below that he had standing to bring his complaint "as a citizen of the United States of America, a citizen, resident of the State of Nevada, who realistically remains subject to, and threatened with prospective deprivations of liberty under the same, as do other sovereigns, people of the State of Nevada." However, we conclude this allegation is merely a generalized grievance shared by members of the public and does not give rise to standing to challenge the constitutionality of the NRS. *See Schwartz*, 132 Nev. at 743, 382 P.3d at 894.

Jones also alleged he had standing to bring his complaint pursuant to Section 13 of Senate Bill No. 182. Section 13 provided that "[u]pon completion [of the Revised Laws of Nevada], 'Revised Laws of

Nevada, ...,' may be cited as prima-facie evidence of the law in all of the courts of this state. Such evidence may be rebutted by proof that the same differ from the official Statutes of Nevada." 1951 Nev. Stat., ch. 304, § 13, at 472. It has since been amended several times and is currently codified as NRS 220.170(3). We conclude the statutory right created by this section does not give rise to standing to challenge the constitutionality of the NRS. *See Stockmeier*, 122 Nev. at 393, 135 P.3d at 226.

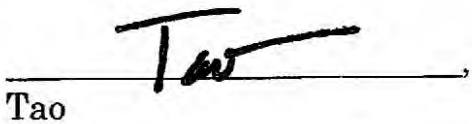
Turning to Jones remaining arguments, we conclude that, because nothing in the district court's dismissal order indicates that it considered matters outside of the pleadings, it was not required to treat respondents' motion as one for summary judgment. *See* NRCP 12(b) (providing that, if "matters outside the pleadings are presented to and not excluded by the [district[court," a motion to dismiss pursuant to NRCP 12(b)(5) "shall be treated as one for summary judgment and disposed of as provided in Rule 56"). Moreover, because Jones could not establish standing to make a generalized challenge to the constitutionality of the NRS or assert that challenge in the context of a civil complaint to challenge his criminal conviction, *see* NRS 34.724(2)(b), the district court was not required to permit him to amend his complaint, as amendment would have been futile. *See Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 289, 357 P.3d 966, 973 (Ct. App. 2015) ("Under NRCP 15(a), leave to amend [a complaint], even if timely sought, need not be granted if the proposed amendment would be 'futile.'"). And regardless, Jones did not seek to amend his complaint below

until after it had been dismissed.[2] Lastly, given that Jones lacked standing to litigate his case, the district court did not err by not establishing a scheduling order or allowing for discovery.

Thus, given the foregoing, Jones failed to demonstrate that the district court erred in dismissing his complaint for failure to state a claim upon which relief could be granted. Accordingly, we

ORDER the judgment of the district court AFFIRMED.[3]

_____, C.J.
Gibbons



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[2]Indeed, Jones did not even file an opposition to respondents' dismissal motion within the approximately three month period between the filing of that motion and the entry of the district court's dismissal order, which alone was a sufficient basis for the district court to dismiss Jones' case. *See* EDCR 2.20 (e) (authorizing the district court to construe a party's failure to oppose a motion within 10 days of its service as a consent to granting the motion).

[3]No request for the recusal or disqualification of the judges of this court was made in this matter.

cc: Hon. Mark R. Denton, District Judge
Jason Jones
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk