

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN ELVIN TURNER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77536-COA

FILED

APR 17 2020

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

ORDER OF REVERSAL AND REMAND

John Elvin Turner appeals from a district court order dismissing consolidated civil rights matters. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Turner filed civil rights complaints against various defendants, including respondent, the State of Nevada. Those complaints, which were not consolidated at the time, were dismissed sua sponte for lack of service, but dismissal was reversed on appeal by this court due to the district court's failure to provide notice to Turner prior to dismissal. *See Turner v. State*, Docket No. 72634-COA (Order of Reversal and Remand, December 18, 2017); *Turner v. State*, Docket No. 72606-COA (Order of Reversal and Remand, March 22, 2018).

On remand, the district court consolidated the actions. It further provided, at a May 1, 2018, hearing, that Turner had 120 days to serve the complaint and ordered that he be provided copies of the complaint and the order granting him leave to proceed in forma pauperis (IFP order). It directed Turner to prepare and submit that order and also to provide

proof of his prior requests for copies of the complaint and IFP order. Ultimately, the State moved for dismissal arguing that Turner failed to serve the complaint on the Attorney General's office. The motion also argued that Turner failed to comply with the prior court order directing him to provide proof of his prior requests for copies of the complaint and IFP order. Over Turner's opposition, the district court granted the motion. The order found that the State's attorney noted for the record that the Attorney General's office had been served with Turner's complaint. It also found that Turner had not complied with the court's prior May 1 directive. This appeal followed.

While the dismissal order fails to explain the basis on which dismissal was granted, given the finding that service on the Attorney General's office was completed, the district court order must be treated as a dismissal for non-compliance with the court's prior ruling. On appeal, Turner argues, albeit in a summary fashion, that he did comply with the directives contained in the district court's oral ruling. With regard to Turner's asserted noncompliance with the court's previous directive, the only basis for dismissal on this point advanced by the State was Turner's purported failure to provide proof of his request for copies of the complaint and IFP order.¹ But Turner did provide the requested proof, which was

¹In reversing the prior dismissal of Turner's complaint at issue in *Turner*, Docket No. 72606-COA (Order of Reversal and Remand, March 22, 2018), we expressly noted that "the record reveals nothing to suggest Turner was ever provided with a copy of the complaint even though he repeatedly requested a file-stamped copy of this document" and that "Turner's

attached as Exhibits 1 and 2 to Turner's June 28, 2018, filing entitled "Order for Requested Copies of Documents Needed." Thus, to the extent the district court dismissed Turner's underlying case on that basis, any such dismissal was improper.

Additionally, although the district court's May 1 oral directive also instructed Turner to prepare the order from the hearing, the State did not seek dismissal based on Turner not complying with this directive, and in the absence of anything expressly indicating this was the basis for dismissal, we cannot uphold the district court's dismissal order on this basis.² See *Jitnan v. Oliver*, 127 Nev. 424, 433, 254 P.3d 623, 629 (2011) ("Without an explanation of the reasons or bases for a district court's decision, meaningful appellate review, even a deferential one, is hampered because we are left to mere speculation."); cf. *Davis v. Ewalefo*, 131 Nev.

continued efforts to obtain this document were rejected by the district court." Under these circumstances, it is not clear what purpose the district court's directive for Turner to provide proof of his requests served, as this statement finally decided the issue of whether Turner made such requests, at least with regard to Eighth Judicial District Court Case No. A-15-722214-C, which was the case at issue in Docket No. 72606.

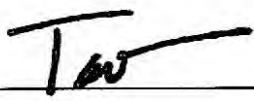
²We note that Turner's June 28, 2018, "Order for Requested Copies of Documents Needed," although inartfully drafted and containing language akin to both a motion and an order, could arguably be construed as an effort to at least partially comply with the May 1 directive to prepare a court order to the extent it directs the district court clerk to provide him with copies of the complaint and IFP order. But under the circumstances presented here, we need not address whether dismissal of Turner's action for not preparing (or fully preparing) an order would be proper.

445, 450, 352 P.3d 1139, 1142 (2015) (stating that “deference is not owed to legal error or to findings so conclusory that they may mask legal error” (internal citations omitted)).

Accordingly, for the reasons sets forth above, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

³Although this court generally will not grant a pro se appellant relief without first providing respondent an opportunity to file an answering brief, see NRAP 46A(c), the filing of an answering brief would not aid this court’s resolution of this case, and thus, no such brief has been ordered.

To the extent this order does not explicitly address any arguments raised by Turner, we have considered them and conclude they either do not provide a basis for relief or they need not be addressed given our disposition of this appeal.

cc: Hon. Ronald J. Israel, District Judge
John Elvin Turner
Attorney General/Las Vegas
Eighth District Court Clerk