

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DONNELLE MCCLAIN, AN
INDIVIDUAL,
Appellant,
vs.
ZIONS BANCORPORATION, N.A.,
D/B/A ZIONS FIRST NATIONAL BANK;
AND ZIONS BANCORPORATION, N.A.,
D/B/A NEVADA STATE BANK,
Respondents.

No. 78191-COA

FILED

JUN 12 2020

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

ORDER OF AFFIRMANCE

Donnelle McClain appeals from a default judgment entered in a breach of contract action. Eighth Judicial District Court, Clark County; Kerry Louise Earley, Judge.

Respondents Zions Bancorporation, N.A., d/b/a Zions First National Bank, and Zions Bancorporation, N.A., d/b/a Nevada State Bank (collectively "Zions"), filed a complaint against McClain alleging breach of contract and unjust enrichment related to money that McClain owed, but failed to repay, from a line of credit account and a credit card account. After repeated attempts at service of the summons and complaint failed, Zions obtained an order allowing for service by publication. After it completed service through publication and McClain failed to answer or otherwise appear in the action, Zions obtained a default against her. It then filed an application for default judgment. At the hearing on the matter the district court requested additional evidence, which Zions provided in a

supplemental filing. Thereafter, the district court entered a default judgment in favor of Zions. Rather than moving to set aside the default judgment, McClain filed the instant appeal.


As an initial matter, because McClain failed to seek any relief from the default judgment below, all of her arguments are presented for the first time on appeal. Thus, we could affirm the default judgment on this basis alone. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (“A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal.”). But even if we were to consider McClain’s arguments on appeal, they nonetheless do not provide a basis for reversing the challenged order.

McClain’s briefing summarily asserts that she was not properly served and that the process server did not make a real effort to serve her, but she fails to expound on these summary statements. She has therefore failed to provide cogent argument as to this issue and we need not consider it. *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). She further stated that there was not sufficient evidence to support the judgment, but again failed to provide cogent argument in this regard. *Id.* Additionally, while McClain maintains that Zions failed to publicly disclose the evidence it claims supported the default judgment, including the supplemental evidence requested by the district court, this argument is belied by the record as the evidence was submitted to the district court and is included in the record on appeal.

Based on the foregoing, we conclude McClain has failed to present a basis for relief and therefore, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Kerry Louise Earley, District Judge
Donnelle McClain
Smith Larsen & Wixom
Eighth District Court Clerk

¹To the extent that McClain raised issues that are not specifically addressed herein, we have considered them and conclude they do not present a basis for relief.