

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VICTOR TAGLE, SR.,
Appellant,
vs.
CLARK COUNTY; DFS; T. KUNTZ;
NORHEIM JON; AND JON KIM,
Respondents.

No. 79691-COA

FILED

OCT 09 2020

ELIZABETH SPORN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Victor Tagle appeals from a district court order dismissing a complaint. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

Tagle, who was incarcerated throughout the underlying proceeding, commenced the action by submitting an application to proceed in forma pauperis and a complaint to the district court. But because the court found the complaint to be illegible and difficult to understand, it granted Tagle leave to amend his pleading to resolve the court's concerns and explained that, if Tagle did so, the court would review the amended pleading and either allow it to be filed, schedule a hearing, or enter any other order the court deemed appropriate. Tagle then submitted a lengthy amended complaint to the district court in which he presented various allegations concerning, among other things, his incarceration and the way his children were treated after they were removed from his care.

The district court directed that the amended pleading be filed and granted Tagle leave to proceed in forma pauperis. But because the court found that the amended pleading was still difficult to understand, it declined to issue summonses and instead directed Tagle to file a

memorandum of points and authorities or another amended complaint that demonstrates “an arguable basis either in law or in fact” for his claims. *See Jordan v. State ex rel. Dep’t of Motor Vehicles & Pub. Safety*, 121 Nev. 44, 57-58, 110 P.3d 30, 41 (2005) (holding that the district court may review in forma pauperis complaints for frivolity and may defer issuing a summons until it has completed its review), *overruled on other grounds by Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n.6, 181 P.3d 670, 672 n.6 (2008). In response, Tagle submitted a second amended complaint in which he repeated many of his prior allegations, presented new allegations, and cited various state and federal criminal statutes and court rules, federal civil rights statutes, and portions of NRS Chapter 432B, which deals with the protection of children from abuse and neglect, all without explaining how his allegations demonstrate that he is entitled to relief under those authorities. The district court determined that, even after liberally construing Tagle’s allegations and giving deference to his status as a pro se litigant, it could not find that he stated a claim for which relief could be granted. Consequently, the district court dismissed Tagle’s second amended complaint. This appeal followed.

Having considered the record on appeal and Tagle’s informal brief, we conclude that the district court properly dismissed the underlying case. Initially, insofar as Tagle challenges the district court’s decision to delay issuing summonses until he demonstrated that his case had a basis in law and fact, his challenge fails, as the supreme court has specifically authorized the district court to review the complaint of a plaintiff who is proceeding in forma pauperis prior to service. *See Jordan*, 121 Nev. at 57-58, 110 P.3d at 41 (explaining that it is constitutionally permissible for the district court to withhold a summons from a plaintiff who is proceeding in


forma pauperis pending its review of the underlying complaint for frivolity). Likewise, although we recognize that Tagle has been without legal representation throughout these proceedings, his pro se status does not excuse him from complying with applicable court rules and procedures. See *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 659, 428 P.3d 255, 258-59 (2018) (noting that procedural rules cannot be applied differently to pro se litigants and that “a pro se litigant cannot use his alleged ignorance as a shield to protect him from the consequences of failing to comply with basic procedural requirements”). Moreover, while Tagle asserts that his prison’s law library refused to provide him with the materials necessary to respond to the district court’s concerns with his pleadings, his assertion is belied by the record, which reflects that the library determined that it could not assist Tagle because it did not have the materials he requested. And Tagle does not argue that the law library was constitutionally inadequate. See *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that arguments not raised on appeal are deemed waived).

Lastly, although Tagle repeats his allegations from below and cites several of the legal authorities from his second amended complaint, along with many others, he fails to argue or explain, as he did below, how his allegations establish that he is entitled to relief under any of those authorities. 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). Thus, because Tagle failed to demonstrate that his case had a basis in law or fact as the district court directed him to do in its second order, which was intended to allow Tagle an opportunity to correct the deficiencies in his pleadings, the court’s decision

to dismiss his second amended complaint must be affirmed.¹ *See Jordan*,
121 Nev. at 57-58, 110 P.3d at 41.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Steve L. Dobrescu, District Judge
Victor Tagle, Sr.
Attorney General/Carson City
White Pine County Clerk

¹Insofar as Tagle raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.