

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALVIN J. GRIFFIN, III,
Appellant,
vs.
ARTHUR ASHKINAZI, PRESIDENT;
AND ALL DESERT APPLIANCES,
D/B/A ADA REPAIR, INC.,
Respondents.

No. 80533-COA

FILED

JAN 22 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Alvin J. Griffin, III, appeals from a district court order granting a motion for summary judgment in a contract and tort action. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Griffin sued respondents Arthur Ashkinazi and All Desert Appliances, d/b/a ADA Repair, Inc. (collectively referred to as respondents), asserting claims for breach of contract, defamation, and negligence. For support, Griffin alleged that he was employed by respondents pursuant to a contract between them; that respondents terminated his employment in violation of the contract, the Americans with Disabilities Act (ADA), and Nevada's equal employment opportunity statutes; and that respondents made defamatory statements about him in connection with his subsequent claim for unemployment benefits. Respondents brought a motion for dismissal or summary judgment, which alleged that they were not properly served and alternatively sought summary judgment on the merits of

Griffin's individual claims. Over Griffin's opposition, the district court granted summary judgment for respondents. Griffin appealed that decision, and this court reversed and remanded for further proceedings since the district court did not set forth the undisputed material facts that supported the summary judgment, and because Griffin's failure to properly serve respondents did not otherwise support the decision. *See Griffin v. Ashkinazi*, Docket No. 77397 (Order of Reversal and Remand, October 30, 2019).

On remand, Griffin moved to disqualify the district court judge, arguing that he was biased because he failed to support the prior summary judgment with factual findings, but the Chief Judge of the Eighth Judicial District Court denied the motion. The district court then entered a new order granting summary judgment for respondents. In particular, the district court determined that Griffin's breach of contract claim failed because respondents offered him temporary at-will employment subject to a condition precedent—specifically, providing proof of his identity within three days of being hired—which he failed to satisfy because he did not provide a copy of a valid driver's license. The district court also concluded that Griffin's defamation claim failed because the challenged statements were made in proceedings before the Employment Security Division (ESD) and were therefore privileged. Lastly, the district court construed Griffin's negligence claim as a claim for violation of the ADA and Nevada's equal employment opportunity statutes, and the court held that the claim was time-barred because Griffin failed to assert it within the federal or state limitations periods. This appeal followed.

This court reviews a district court summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file show that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.* General allegations and conclusory statements do not create genuine issues of fact. *Id.* at 731, 121 P.3d at 1030-31.

On appeal, Griffin seeks reversal of the summary judgment on several bases unrelated to the merits of his claims. But insofar as Griffin argues that the district court judge should have been disqualified from hearing this matter on remand based on his failure to make factual findings in the original summary judgment order, Griffin's argument is unavailing since the "rulings and actions of a judge during the course of official judicial proceedings do not establish legally cognizable grounds for disqualification." *In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988). Moreover, to the extent Griffin contends that our order in Docket No. 77397-COA required the district court to do something other than enter a new summary judgment for respondents with supporting factual findings, his contention is without merit, as the district court's action was within the bounds of our order, which, as noted above, reversed based on the court's failure to make factual findings and remanded for further proceedings consistent with the order. We also reject Griffin's various assertions that respondents and their counsel committed misconduct during the underlying proceeding, as his assertions are unsupported by the record.

Turning to Griffin's specific claims, he challenges the summary judgment on his breach of contract claim, arguing that respondents contracted to employ him for a 30-day period and that respondents violated the contract by terminating him before the expiration of that term even though he satisfied the condition precedent referenced above by producing sufficient documentation for respondents to verify his identity. But although respondents extended an offer to employ Griffin for a temporary period, which they stated was expected to end after 30 days, they did not guarantee him employment for any period, as they specifically indicated that the position was at-will and could be terminated at any time and for any reason. *See Am. First Fed. Credit Union v. Soro*, 131 Nev. 737, 739, 359 P.3d 105, 106 (2015) (explaining that contract interpretation is a question of law subject to de novo review and that unambiguous contracts will be enforced as written). And because an employer may indeed terminate an at-will employee without liability at any time and for any reason or no reason, it is irrelevant whether Griffin produced sufficient documentation to satisfy the condition precedent, so long as respondents' reason for terminating him did not offend public policy. *See Martin v. Sears, Roebuck & Co.*, 111 Nev. 923, 926-27, 899 P.2d 551, 553-54 (1995) (discussing at-will employment and recognizing that an employer's general right to terminate at-will employment is subject to strong public policy exceptions).

Here, the district court found that respondents terminated Griffin's employment because he failed to produce a valid driver's license within the three-day period designated in their offer of employment for him to prove his identity, which is not a reason proscribed by Nevada public

policy. Insofar as Griffin disputes whether this was actually the reason for his termination by pointing to slight variations in statements made by respondents and their employees regarding the matter, none of those variations are sufficient to establish a genuine issue of material fact with respect to whether his employment was terminated for an improper reason. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029. Thus, Griffin has not demonstrated that the district court erred by granting summary judgment for respondents on his breach of contract claim. *Id.*

Griffin next challenges the summary judgment for respondents on his defamation claim, arguing that the challenged statements were not privileged because they were false and made with bad faith and ill will towards him. But in Nevada, the absolute privilege for defamatory statements made in the course of judicial or quasi-judicial proceedings applies even when the challenged communications were made with malicious intent and knowledge of their falsity. *See Jacobs v. Adelson*, 130 Nev. 408, 412-13, 325 P.3d 1282, 1285 (2014) (recognizing that “the public interest in having people speak freely [during litigation] outweighs the risk that individuals will occasionally abuse the privilege by making false and malicious statements” (internal quotation marks omitted)).

Moreover, insofar as Griffin contends that respondents somehow forfeited the privilege by including documents from the proceeding before ESD as exhibits in support of their motion for summary judgment, we need not consider his contention, as he did not support it with citation to relevant legal authority even though he filed what is essentially a formal brief in this matter. *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 relevant legal authority in resolving a fully briefed pro se appeal).¹ As a result, Griffin failed to demonstrate that the district court erred by granting summary judgment for respondents on his defamation claim. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029; *see also Clark Cty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 382, 213 P.3d 496, 502 (2009) (providing that Nevada's appellate courts review district court decisions concerning the applicability of the absolute privilege de novo).

As to his negligence claim, Griffin challenges the summary judgment for respondents by arguing the merits of his underlying allegation that respondents violated the ADA and Nevada's equal employment opportunity laws when they terminated him. In doing so, Griffin fails to address the district court's holding that his allegations of disability discrimination were time-barred based on his failure to assert them within the relevant federal and state limitations periods, and as a result, Griffin waived any challenge thereto. *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). And insofar as Griffin asserts that his negligence claim was actually based on respondents' alleged defamatory statements, his assertion is unavailing for the reasons

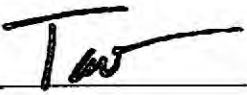
¹Although Griffin's brief is styled as an informal brief, it extensively cites Nevada law, various extrajurisdictional authorities, and secondary sources, as well as the record on appeal. *See* NRAP 28(k) (authorizing pro se appellants to file the informal brief form provided by the clerk of court, which does not require citations to legal authority or the record, in lieu of the brief described in NRAP 28(a)).

discussed above. Consequently, Griffin has not demonstrated that the district court erred by granting summary judgment for respondents on his negligence claim.

Thus, because Griffin has not shown that reversal is warranted with respect to any of his claims, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Ronald J. Israel, District Judge
Alvin J. Griffin, III
Law Office of Neal Hyman
Eighth District Court Clerk

²Insofar as the parties raise 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.