

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant,

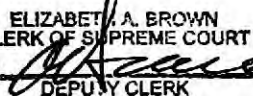
vs.

THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
JAMES DZURENDA; RONDA
HOUSEN; DOROTHY NASH-HOLMES;
NEVADA PAROLE BOARD
COMMISSIONERS; NEVADA BOARD
OF PRISON COMMISSIONERS; DOSLA
FOLEY; TONY CORDA; LOVELOCK
CORRECTIONAL CENTER; RAY EAST;
DAN POAY; ELY STATE PRISON;
WILLIAM A. GITTERE; WILLIAM
RUEBART; TASHEENA SANDOVAL;
AND FREDRICK HAMMEL,
Respondents.

No. 80953-COA

FILED

JAN 29 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Renard Truman Polk appeals from a district court order denying a motion for preliminary injunction. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

In the underlying case, Polk filed a motion for preliminary injunction seeking injunctive relief against respondent, the Nevada Department of Corrections (NDOC) and the other respondents to this appeal. However, Polk did not file a complaint and instead immediately sought to have his motion for a preliminary injunction served upon the respondents and heard before the district court. The district court denied Polk's motion for injunctive relief on the basis that Polk failed to file a complaint associated with his motion for a preliminary injunction, and dismissed the matter. Polk now appeals.

This court reviews a district court order denying a motion for a preliminary injunction for an abuse of discretion. *Labor Comm'r v. Littlefield*, 123 Nev. 35, 38-39, 153 P.3d 26, 28 (2007). After a review of Polk's informal brief and the record on appeal, we conclude that the district court did not abuse its discretion in denying the motion for a preliminary injunction.

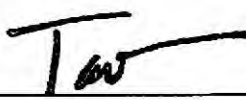
Here, Polk's failure to file a complaint is fatal to his request for injunctive relief. See NRS 33.010(1) (stating that injunctive relief is warranted "[w]hen it shall appear by the complaint that the plaintiff is entitled to the relief demanded, and such relief or any part thereof consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually"); see also *Pac. Radiation Oncology, LLC v. Queen's Med. Ctr.*, 810 F.3d 631, 633 (9th Cir. 2015) (stating that "[w]hen a plaintiff seeks injunctive relief based on claims not pled in the complaint, the court does not have the authority to issue an injunction"); 42 Am. Jur. 2d *Injunctions* § 235 (2020) ("In the absence of a complaint requesting particular relief, and setting out the basis for jurisdiction, a court lacks the jurisdiction to grant . . . a preliminary injunction.").

Further, because Polk failed to commence an action in conjunction with his motion for a preliminary injunction, he necessarily cannot prove his likelihood of success on the merits. See *Shores v. Glob. Experience Specialists, Inc.*, 134 Nev. 503, 505, 422 P.3d 1238, 1241 (2018) ("A party seeking a preliminary injunction must show a likelihood of success on the merits of their case and that they will suffer irreparable harm without preliminary relief."). Thus, we conclude that the district court acted within its discretion when it denied Polk's motion for a preliminary

injunction on the basis that Polk failed to file a complaint in district court.
Littlefield, 123 Nev. at 38-39, 153 P.3d at 28. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Steve L. Dobrescu, District Judge
Renard Truman Polk
Attorney General/Carson City
White Pine County Clerk

¹Insofar 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.