

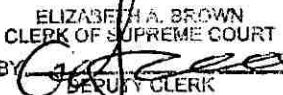
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEVIN L. WHITE,
Appellant,
vs.
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,
Respondent.

No. 85824-COA

FILED

MAY 24 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Kevin L. White appeals from a district court summary judgment in a forfeiture action. Eighth Judicial District Court, Clark County; Nadia Krall, Judge.

White was arrested in 2021 and respondent Las Vegas Metropolitan Police Department (LVMPD) confiscated \$689 from him at that time. Shortly thereafter, LVMPD filed a complaint for forfeiture regarding the \$689 pursuant to NRS 179.1156–NRS 179.121, and White answered. LVMPD subsequently moved for summary judgment, asserting that a judgment of conviction had been entered against White in a criminal proceeding unrelated to the 2021 arrest and that the judgment included a \$5000 restitution order. And in light of the foregoing, LVMPD argued that summary judgment was appropriate since, even if White could prevail on the forfeiture issue, the confiscated funds were nevertheless payable towards the restitution order. White failed to timely oppose LVMPD's motion. As a result, the district court granted the motion as unopposed and directed that the funds be applied towards satisfaction of the restitution order. This appeal followed.

Under EDCR 2.20(e), the district court may construe a party's failure to timely oppose a motion for summary judgment "as an admission that the motion . . . is meritorious and a consent to granting the same." See *King v. Carlidge*, 121 Nev. 926, 928, 124 P.3d 1161, 1162 (2005) (discussing DCR 13(3), which is substantively identical to EDCR 2.20(e), and explaining that a party's failure to timely oppose a motion for summary judgment is "sufficient grounds for the district court to deem [the] motion unopposed and thus meritorious"). This court reviews the district court's decision to grant a motion for summary judgment as unopposed for an abuse of discretion. *Id.* at 928, 124 P.3d at 1163.

On appeal, White challenges the district court's decision to grant LVMPD's motion for summary judgment as unopposed by essentially asserting that the court's action violated his right to procedural due process. However, procedural due process simply requires that a party be afforded notice and an opportunity to be heard. See *Callie v. Bowling*, 123 Nev. 181, 183, 160 P.3d 878, 879 (2007). Here, White does not dispute that he had meaningful notice of LVMPD's motion. 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 White had an opportunity to be heard on the matter insofar as he could have opposed the motion prior to the district court's entry of an order granting the same. See EDCR 2.20(e) (requiring a party opposing a motion to file the opposition within 14 days after service of the motion). Although White failed to avail himself of that opportunity, it is well-established in Nevada law that the district court may grant a motion as unopposed. See *id.*; *King*, 121 Nev. at

928, 124 P.3d at 1162. Consequently, we discern no basis for relief in this respect.¹

White proceeds with his challenge to the order granting summary judgment by disputing whether the district court had subject matter jurisdiction to enforce the restitution order and whether LVMPD had standing to bring the underlying proceeding. However, insofar as White asserts that the district court lacked subject matter jurisdiction because the restitution order could only be enforced in the criminal action where it was entered, his argument lacks merit because NRS 176.275(3) specifically authorizes “[a]n independent action to enforce a judgment which requires a defendant to pay restitution [to] be commenced at any time.” Moreover, to the extent White asserts that the district court lacked subject matter jurisdiction to enforce the restitution order because this case did not proceed in accordance with Nevada’s Administrative Procedure Act (APA), his assertion is likewise unavailing because a proceeding to enforce a restitution order is not an administrative proceeding subject to the APA. *See* NRS 176.275(2)(a) (providing that a restitution order may be enforced in the same manner “as any other judgment for money rendered in a civil action”). And while White disputes whether LVMPD had standing to bring the underlying proceeding, he does not offer any cogent argument or explanation as to why he believes that it did not have standing, such that

¹Insofar as White contends that he was deprived of the opportunity to contest the summary judgment in the underlying proceeding after it was entered, relief is likewise unwarranted, as White could have challenged that decision before the district court through several post-judgment mechanisms, *see* NRCP 59(e) (governing motions to alter or amend a judgment); NRCP 60(b) (governing motions for relief from a judgment); EDCR 2.24 (governing motions for rehearing), but elected instead to file this appeal.

we need not consider this issue. *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 unsupported by cogent argument). But regardless, based on our review of the record before this court, we discern no basis to conclude that LVMPD lacked standing.

Thus, in light of the foregoing, we conclude that White failed to demonstrate that the district court abused its discretion by granting LVMPD's motion for summary judgment as unopposed. *See King*, 121 Nev. at 928, 124 P.3d at 1163. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Nadia Krall, District Judge
Kevin L. White
Liesl K. Freedman
S. Scott Greenberg
Eighth District Court Clerk

²Insofar as White raises arguments that are not specifically addressed in this order, we have considered them and conclude that they either do not present a basis for relief or need not be reached given our disposition of this appeal.

The Honorable Michael Gibbons, Chief Judge, did not participate in the decision of this matter.