

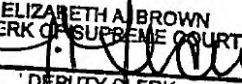
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BILLY CEPERO,
Appellant,
vs.
ROY L. NELSON, III; JAMES C.
GALLO, JR.,
Respondents.

No. 85309-COA

FILED

AUG 11 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Billy Cepero appeals from a district court order of dismissal without prejudice in a civil action. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

Cepero filed the underlying action on November 26, 2018, alleging various causes of action based upon his assertion that he retained the respondents to pursue a postconviction petition for a writ of habeas corpus in 2012, but the respondents failed to file the petition. Cepero did not complete service of process upon the respondents but instead filed a motion requesting a district court order for service of the summons and complaint on respondents. However, Cepero's motion did not comply with NRCP 4.4(b)(1) because he did not attempt to demonstrate that other methods of service were impracticable. Cepero also did not provide the evidence required by NRCP 4.4(b)(2) that he had performed due diligence to locate and serve the respondents. The district court did not grant Cepero's request for court-ordered service of process and Cepero did not request an enlargement of time to complete service. The district court subsequently dismissed Cepero's complaint without prejudice due to

Cepero's failure to complete service of process within 120 days. This appeal followed.

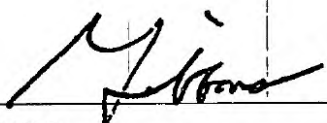
This court reviews a district court's decision to dismiss a complaint based on the failure to timely effect service of process for an abuse of discretion. *Saavedra-Sandoval v. Wal-Mart Stores*, 126 Nev. 592, 595, 245 P.3d 1198, 1200 (2010). A district court must dismiss a plaintiff's complaint if the plaintiff fails to serve a defendant with process within 120 days of filing the complaint and fails to move for an enlargement of the time for service. *See* NRCPC 4(e)(1) ("The summons and complaint must be served upon a defendant no later than 120 days after the complaint is filed, unless the court grants an extension of time under this rule."); NRCPC 4(e)(2) (providing that "[i]f service of the summons and complaint is not made upon a defendant before the 120-day service period—or any extension thereof—expires, the court must dismiss the action, without prejudice, as to that defendant upon motion or upon the court's own order to show cause").

The record demonstrates Cepero did not complete service of process on the respondents within 120 days of the filing of the complaint and he did not file a motion to enlarge the time for service. On appeal, Cepero does not provide cogent argument concerning the district court's decision to dismiss the complaint due to his failure to complete service of process. Because Cepero has neglected to address any specific contention of error in his brief or otherwise address the grounds the district court relied on to dismiss his case, we need not consider his bare allegations.¹ *See*

¹While the district court did not direct Cepero to show cause why his complaint should not be dismissed for lack of service prior to the entry of its dismissal order, any error in this regard is harmless given that Cepero offers no cogent argument challenging the court's service-based dismissal of

Edwards v. Emperor's Garden Rest., 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that the appellate courts need not consider claims unsupported by cogent argument). Therefore, we conclude that Cepero does not demonstrate that the district court abused its discretion when it dismissed Cepero's complaint without prejudice. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Timothy C. Williams, District Judge
Billy Cepero
James C. Gallo, Jr.
Roy L. Nelson, III
Eighth District Court Clerk

his complaint on appeal. *Cf.* NRCP 61 (providing that the court must disregard all errors that do not affect a party's substantial rights).

²Insofar as Cepero 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.