

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KENTRELL DUMURIE WELCH,
Appellant,
vs.
PERRY RUSSELL; MEGAN SULLIVAN;
CCS PERRY; SR C/O BARTTLETT; DI
GIBSON; MELISSA MITCHELL; RON
HUNNULT; SYLVIA IRVIN; SGT
SMITH; LT DAMON BELL; CCS MEZA;
AND RHONDA LARSON,
Respondents.

No. 87078-COA

FILED

MAY 17 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kentrell Dumurie Welch appeals from a district court order dismissing his complaint in a civil rights action. Second Judicial District Court, Washoe County; Tammy Riggs, Judge.

Welch, an inmate, initiated the underlying action against respondents, who are employees of the Nevada Department of Corrections, asserting various claims for violation of his constitutional rights. The district court eventually entered an order dismissing Welch's complaint on two independent alternative grounds. First, the court found that Welch failed to serve respondents with the summons and complaint within the 120-day period for doing so. *See* NRCP 4(e). Second, the court determined that it lacked subject matter jurisdiction over this action, essentially reasoning that Welch's civil rights claims related to his status as an inmate at Ely State Prison in White Pine County and should have been filed there or in Carson City rather than Washoe County. *See* NRS 41.031(2) (providing that actions brought against the State of Nevada "must be filed

in the county where the cause or some part thereof arose or in Carson City”). This appeal followed.

On appeal, Welch argues that the district court improperly dismissed his complaint based on his failure to timely serve respondents with a copy of the summons and complaint. However, in his informal brief, Welch fails to address, or even acknowledge, the court’s conclusion that it lacked subject matter jurisdiction over this case because he improperly filed it in Washoe County. As a result, Welch waived any challenge to that portion of the district court’s decision and has therefore failed to establish a basis for reversal. *See Hung v. Genting Berhad*, 138 Nev., Adv. Op. 50, 513 P.3d 1285, 1288 (Ct. App. 2022) (providing that an appellant generally must challenge all the independent alternative grounds relied upon by the district court to obtain reversal).

While Welch does dispute whether the district court could properly dismiss his case in its infancy, it is well recognized that courts can address subject matter jurisdiction at any time *sua sponte*, *see Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1194 n.2 (9th Cir. 1988); *Landreth v. Malik*, 127 Nev. 175, 179, 251 P.3d 163, 166 (2011), and dismissal for lack of subject matter jurisdiction is required if the plaintiff fails to properly invoke Nevada’s waiver of sovereign immunity by complying with NRS 41.031(2)’s requirements. *See Carter v. Vanhorn*, No. 79875-COA, 2021 WL 1526727, at *2 (Nev. Ct. App. Apr. 16, 2021) (Order of Affirmance) (stating the same); *see also Craig v. Donnelly*, 135 Nev. 37, 39-40, 439 P.3d 413, 415 (Ct. App. 2019) (setting forth the foregoing conclusion in the context of a failure to comply with the requirement that the State of Nevada be named as a party). And as discussed above, Welch makes no attempt to

demonstrate that the district court had subject matter jurisdiction over this case.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Tammy Riggs, District Judge
Kentrell Dumurie Welch
Attorney General/Carson City
Washoe District Court Clerk

¹Insofar as Welch raises arguments that are not specifically addressed in this order, we have considered the same and conclude they do not present a basis for relief.