IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TONEY ANTHONY WHITE, Appellant,

VS.

JACQUES GRAHAM; SIA ASIMIDAKIS;

R. GARCIA; R. VALLE; JULIE

WILLIAMS: AND THE STATE OF

NEVADA,

Respondents.

No. 87837-COA

FILED

MAY 2 8 2025

CLERK OF JUPREME COURT

ORDER OF AFFIRMANCE

Toney Anthony White appeals from a district court order dismissing his civil rights complaint for failing to perfect service on respondents within 120 days. Eighth Judicial District Court, Clark County; Tara D. Clark Newberry, Judge.

White filed the original complaint in this matter on June 7. 2022, naming respondents Jacques Graham, Sia Asimidakis, R. Garcia, R. Valle, and the State of Nevada as defendants. The record reflects that White attempted service on the individual defendants, but the declarations of service suggest that Graham and Valle were only served with the summons, and not the complaint. As for Garcia and Asimidakis, the Carson City Sheriff's Office submitted declarations of non-service reflecting that they were unable to serve these defendants. A declaration of service was subsequently filed for Garcia, indicating that he was served with the summons and complaint on August 17, 2022. It does not appear from the record that any attempt was made to serve the State of Nevada.

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White subsequently filed an amended complaint on August 4. 2022, which—among other things—added respondent Julie Williams as a defendant. A declaration of service for Williams was subsequently filed, stating that she was served with the summons and amended complaint on September 28, 2022. It does not appear that White attempted to serve any of the other defendants with the amended complaint.

Relevant to this appeal, the district court entered an order that dismissed White's action for failure to perfect service of either the original or amended complaint. The district court noted that, based on its review of the record, there was no evidence that White had served either of his complaints on the Attorney General's office, as required under NRCP 4.2(d) when a party files suit against the State of Nevada or current or former State of Nevada employees such as the respondents in this case.

The district court further found that the declarations of service for Valle and Graham indicated that only the summons had been served upon them and not the complaint, such that service was not properly completed on these parties. With regard to Asimidakis, the district court found that no summons had been issued for this defendant and there did not appear to have been any proper service upon Asimidakis. With regard to the State of Nevada, the district court found "there was no evidence" White had even attempted to serve the State.

The district court went on to find that 120 days had passed from the date of filing of both the initial and amended complaints, but that none of the defendants were properly served. As a result, the district court

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dismissed the case based on White's failure to properly perfect service of process. This appeal followed.

We review the dismissal of a case for failure to effect timely service of process for an abuse of discretion. *Moroney v. Young.* 138 Nev. 769, 770, 520 P.3d 358, 361 (2022).

On appeal, White presents various arguments regarding his efforts to personally serve Valle, Graham, Williams and Garcia. But he presents no arguments regarding the propriety of the dismissal of his case with regard to Asimidakis and the State of Nevada for failure to serve these parties, and thus he has waived any challenge to these determinations. See Powell v. Liberty Mut. Fire Ins. Co., 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that "[i]ssues not raised in an appellant's opening brief are deemed waived").

Similarly. White fails to address or even acknowledge the district court's decision that White's failure to serve either of his complaints on the Attorney General's office necessitated the dismissal of his action for failure to comply with the requirements of NRCP 4.2(d). This rule provides that, when a plaintiff sues the State of Nevada or a current or former employee of the State, the plaintiff must serve the summons and complaint on "the Attorney General, or a person designated by the Attorney General to receive service of process, at the Office of the Attorney General in Carson City." NRCP 4.2(d)(1)(A). Because White does not address the district court's finding that he failed to comply with this rule as to any of the

¹Although the district court's dismissal order is silent on this point, under NRCP 4(e)(2) any dismissal of an action for failure to perfect service of process is, by rule, without prejudice.

defendants, he has waived any challenge to that determination. *See Powell*, 127 Nev. at 161 n.3, 252 P.3d at 672 n.3.

Here, the record demonstrates that more than 120 days had passed from the filing of both the original and amended complaints at the time the district court dismissed White's case. Because White has failed to address the district court's determination that dismissal for failure to properly serve either of his complaints was required because he failed to properly serve the summons and complaint on Asimidakis and the State of Nevada, and he failed to comply with NRCP 4.2(d) by serving the Attorney General or the person designated to receive service of process by the Attorney General, we discern no abuse of discretion in the district court's decision to dismiss White's case. *See Moroney*, 138 Nev. at 770, 520 P.3d at 361.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.²

Bulla C.J.

Gille J.

Gibbons

Mostpront. J.

²Given the basis for our resolution of this matter, we need not address White's remaining appellate contentions.

cc: Hon. Tara D. Clark Newberry, District Judge Toney Anthony White, III Attorney General/Carson City Eighth District Court Clerk