



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JACOB SOVEY,
Appellant,
vs.
WASHOE COUNTY DISTRICT
ATTORNEY'S OFFICE AND
KATHLEEN BAKER, IN HER
OFFICIAL CAPACITY,
Respondents.

No. 90941-COA

ORDER OF AFFIRMANCE

Jacob Sovey appeals from a district court order dismissing his complaint in a tort and civil rights action. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

In 2010, Sovey was involved in a custody dispute during which he filed a peremptory challenge of the presiding judge, Judge Weller. Approximately 12 years later, in 2022, now Senior Judge Weller oversaw a separate employment adjustment review proceeding, regarding a child uninvolved in the 2010 proceedings, wherein respondent Chief Deputy District Attorney Kathleen Baker represented respondent Washoe County District Attorney's Office (WCDA). During the hearing, respondents and Sovey apparently provided competing evidence regarding Sovey's gross income and Judge Weller ultimately entered a February 2022 order requiring Sovey to pay child support and found he owed arrearages. Sovey did not appeal this order.

In 2025, Sovey filed a civil complaint alleging respondents violated his constitutional rights, various state and federal statutes, and committed various torts against him. Specifically, Sovey alleged the February 2022 order was void because he had filed a peremptory challenge of Judge Weller in the initial custody proceeding over a decade earlier. Sovey further alleged respondents provided erroneous information related to his gross income which resulted in an inflated child support obligation. Sovey contended that respondents were aware the 2022 order was void and based on erroneous findings, but continued to enforce the order against him. Sovey reasoned respondents were obligated to take legal action, such as requesting a new employment adjustment review hearing, and thus violated various rights by continuing to enforce the order.

Relevant here, Sovey filed two motions in the underlying proceeding. Sovey first filed a motion for default judgment arguing more than 21 days had elapsed since the service of the complaint and respondents had failed to respond. Additionally, Sovey filed a request for a free copy of the February 2022 hearing transcript, reasoning it was necessary to support his claims. Respondents then filed an opposition to both motions, arguing they were entitled to 45 days to respond to the complaint under NRCP 12(a)(2), and they timely filed their motion to dismiss within that period. Further, respondents argued Sovey's transcript request was premature and that he was not entitled to a free copy of the transcript from the district court. Sovey filed a reply in support of his request for default. Ultimately, the district court entered an order denying both motions, finding

respondents had 45 days to respond and that Sovey was not entitled to a free copy of the transcripts.

Respondents then filed a motion to dismiss. Relevant here, respondents asserted the complaint was a collateral attack on the February 2022 order and the district court lacked jurisdiction to declare it void. Further, respondents maintained that WCDA was not a suable entity as the State had not waived sovereign immunity for county subdivisions. Furthermore, respondents argued Baker was entitled to prosecutorial immunity as she was acting in her official capacity when she prosecuted the child support action. Sovey filed an opposition, which asserted he was challenging respondents' enforcement actions, not the underlying order, and that immunity did not shield the respondents from liability as they engaged in misconduct. Respondents filed a reply and the district court ultimately entered an order dismissing the complaint for the reasons stated in respondents' motion.¹

Sovey now appeals the denial of his request for the hearing transcript, the denial of his motion for default judgment, and the order dismissing his complaint.² Regarding the denial of the motion for default

¹We note respondents' motion to dismiss asserted various other arguments in support of their request to dismiss all claims and that the district court agreed with respondents' assertions. However, for the reasons discussed below, we need not address every basis for the district court's decision.

²We conclude the district court did not abuse its discretion in denying Sovey's request for a hearing transcript. *See MGM Grand, Inc. v. Eighth Jud. Dist. Ct.*, 107 Nev. 65, 70, 807 P.2d 201, 204 (1991) (recognizing district

judgment, Sovey primarily contends the district court erred by finding respondents were entitled to 45 days to respond to his complaint under NRCP 12(a)(2) because the WCDA is a county division, not a state political subdivision. This court reviews the grant or denial of a motion for default judgment for abuse of discretion. *See, e.g., Landreth v. Malik*, 127 Nev. 175, 188, 251 P.3d 163, 171 (2011) (applying the abuse of discretion standard to a motion to set aside default judgment). Nevada counties, and their public entities or subdivisions, are entitled to 45 days to file a responsive pleading. NRCP 12(a)(2)(B). Further, employees of the Nevada counties, and their public entities or subdivisions, are likewise entitled to 45 days to file a responsive pleading. NRCP 12(a)(2)(C).

Here, we conclude the district court did not abuse its discretion because respondents were entitled to 45 days to file a responsive pleading. Sovey is correct that the WCDA is not a political subdivision of the state nor is it a county. *See Wayment v. Holmes*, 112 Nev. 232, 237-38, 912 P.2d 816, 819 (1996) (concluding that the WCDA is not a political subdivision of the state). However, we conclude the plain language of NRCP 12(a)(2)(B) and (C) entitles respondents to 45 days to file a responsive pleading as the WCDA is a Washoe County public entity. *See id.* (concluding WCDA is a department of Washoe County); *cf., e.g.,* NRS 426.630(5) (defining a public

courts have wide discretion to control pretrial discovery). Sovey's reliance on NRS 12.015 is misplaced as it does not entitle him to a free copy of a hearing transcript from a separate district court matter. Further, the authorities cited by Sovey fail to establish a constitutional entitlement to the transcript. Accordingly, we affirm the denial of his request for the hearing transcript.

entity as “any department or agency of a political subdivision of the State”). Because Washoe County is a political subdivision, and the WCDA is a public entity of Washoe County, the WCDA was entitled to 45-days to file a responsive pleading and Baker, as its employee, was likewise entitled to 45 days to respond. Accordingly, we conclude the district court did not abuse its discretion by denying the motion for default judgment as respondents were not in default.

Sovey next argues the district court abused its discretion by granting the motion to dismiss because his complaint was not a collateral attack on the February 2022 order. A district court’s order granting a motion to dismiss for “failure to state a claim upon which relief can be granted” is rigorously reviewed on appeal. NRCP 12(b)(5); *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). In reviewing such an order, we assume that all facts alleged in the complaint are true, and we review the district court’s legal conclusions de novo. *Id.* at 228, 181 P.3d at 672.

“The district judges shall possess equal coextensive and concurrent jurisdiction and power.” NRS 3.220. District courts therefore lack jurisdiction to review orders issued by other district courts. *State v. Sustacha*, 108 Nev. 223, 225, 826 P.2d 959, 960 (1992) (holding the district court exceeded its jurisdiction by voiding an order issued by a different district court). Here, we conclude the district court correctly dismissed Sovey’s complaint because all of his claims were premised on a finding that the February 2022 order was void since he filed a peremptory challenge against Judge Weller in the initial custody dispute. Contrary to Sovey’s

argument, the allegations in his complaint demonstrate it was a collateral attack on the February 2022 order. Furthermore, Sovey's own appellate arguments demonstrate that all his claims require a finding that the February 2022 order is void. Accordingly, we conclude the district court properly dismissed the complaint pursuant to NRS 3.220.

And even assuming Sovey's claims did not require a finding that the February 2022 order was void, dismissal was still appropriate. Contrary to Sovey's argument on appeal, the WCDA is not a suable entity under state or federal law. *See Wayment*, 112 Nev. at 237-38, 912 P.2d at 819 (holding that pursuant to NRS 41.031, the WCDA is not a suable entity as the State of Nevada has not waived immunity on its behalf); *see also Jackson v. Barnes*, 749 F.3d 755, 767 (9th Cir. 2014) (holding a district attorney's office is not a person subject to suit under § 1983). Accordingly, we affirm the district court's alternative finding that the claims against WCDA must be dismissed as it is not a suable entity.

Furthermore, we likewise conclude the district court appropriately dismissed the claims against Baker on the alternative basis that she is entitled to prosecutorial immunity. NRS 241A.030(4) defines a prosecutor as "any deputy attorney or other attorney or person employed by the Attorney General or a district attorney or city attorney." Here, the complaint alleges Baker is the Chief Deputy District Attorney for the WCDA and was sued in her official capacity only. Thus, she qualifies as a prosecutor under NRS 241A.030(4). And a prosecutor is immune from suit for actions taken in the performance of her civil obligations. *Washoe County ex rel. Off. of Dist. Atty. v. Sec. Jud. Dist. Ct.*, 98 Nev. 456, 457, 652 P.2d

1175, 1176 (1982). Here, Sovey alleges Baker took various actions, or failed to take certain actions, in her official capacity as the Chief Deputy District Attorney during the prosecution of the child support matter. Therefore, we conclude the district court properly dismissed all claims against Baker on the basis of prosecutorial immunity.³

Accordingly, we

ORDER the judgment of the district court AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Kathleen A. Sigurdson, District Judge
Jacob Sovey
Washoe County District Attorney
Washoe District Court Clerk

³Insofar as Sovey raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.