



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JACOB D. SOVEY F/K/A JACOB D.
HERRICK-SOVEY¹,

Appellant,

vs.

STATE OF NEVADA, DIVISION OF
WELFARE AND SUPPORTIVE
SERVICES; TAMMY TOVEY-
STEPHENSON, IN HER OFFICIAL
CAPACITY; AND VERONICA
MCKENNA, IN HER OFFICIAL
CAPACITY,

Respondents.

No. 91104-COA

ORDER OF AFFIRMANCE

Jacob D. Sovey f/k/a Jacob D. Herrick-Sovey appeals from a district court order of dismissal in a tort, contract, and civil rights action. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Sovey filed a complaint against respondents the State of Nevada, Division of Welfare and Supportive Services (DWSS), Tammy Tovey-Stephenson (a senior DWSS official), in her official capacity, and Veronica McKenna (a DWSS case worker), in her official capacity, alleging respondents failed to enforce child support obligations equitably, which caused significant financial harm, emotional distress and reputational damage to Sovey and his minor children. His complaint asserted claims under 42 U.S.C. § 1983, breach of contract based on the Temporary

¹We direct the clerk of this court to amend the caption on this court's docket to conform with the caption on this order.

Assistance for Needy Families (TANF) program, negligence, and failure to perform statutory duties. Sovey filed declarations of service indicating he served the Attorney General's office and Tovey-Stephenson on April 15, 2025. Sovey later filed a request for clerk's entry of default and an affidavit in support of the request. He also filed a motion for default judgment.

On May 23, respondents filed a motion to dismiss Sovey's complaint pursuant to NRCP 12(b)(1), (4), and (5). Respondents argued, among other things, that Sovey failed to state claims for relief, failed to properly effectuate service, and did not invoke the state's waiver of sovereign immunity. Sovey opposed the motion. Respondents also filed an opposition to Sovey's motion for default judgment, arguing that default was not proper as Sovey failed to properly effectuate service and notwithstanding that failure, respondents had moved to dismiss Sovey's complaint.

Thereafter, the district court entered an order addressing the motions. The court denied Sovey's motion for a default judgment as there had been no entry of default entered in the case. The court further found that Sovey did not properly effectuate service as he failed to serve a copy of the summons and complaint on McKenna, Tovey-Stephenson, the administrative head of DWSS, and the Office of the Attorney General for each defendant but did not find it appropriate to dismiss the complaint on grounds of insufficient service of process. The court then evaluated Sovey's argument that respondents waived their jurisdictional arguments, but the court rejected this point noting that respondents timely asserted them in their first responsive pleading. The court further found, among other things, that Sovey's § 1983 claim was not applicable to respondents as his claim was premised on the notion that the respondents violated state law

which is not a cognizable claim under § 1983. The court also found that insofar as Sovey was claiming a violation of the Fourteenth Amendment to the United States Constitution, he was improperly attempting to circumvent the prohibition against basing § 1983 claims on a violation of state law. Next, the court found that Sovey was unable to state a breach of contract claim because the statute that codifies TANF, 42 U.S.C. § 601(b), sets forth that there is no individual entitlement to TANF benefits. The court further found that Sovey's negligence claim failed to state a claim for relief as Sovey was relying on NRS 125B.070, which was an old child support statute repealed in 2017. Thus, the district court dismissed Sovey's complaint. This appeal followed.

Sovey argues that the district court erred by granting respondents' motion to dismiss without addressing his motion for a default judgment and that respondents waived jurisdictional and service-based defenses by filing an untimely motion to dismiss.

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). The State of Nevada and State public entities or subdivisions are entitled to 45 days to file a responsive pleading. NRCP 12(a)(2)(A). Further, employees of Nevada public entities or subdivisions are likewise entitled to 45 days to file a responsive pleading. NRCP 12(a)(2)(C). Here, Sovey's argument on these points lacks merit. Sovey's declarations of service reflect that he served the Attorney General's office and Tovey-Stephenson on April 15, 2025, and respondents' motion to dismiss was filed on May 23. Even without deciding whether service was properly effectuated on all respondents, respondents' motion to dismiss was

timely filed within 45 days of the date Sovey declared that the Attorney General's office and Tovey-Stephenson had been served, and thus, neither an entry of default nor a default judgment were warranted. *See* NRCP 12(a)(2).

Next, Sovey argues that the district court erred in dismissing his complaint pursuant to NRCP 12(b)(5) as his allegations were not conclusively refuted and his pleadings were entitled to liberal construction since he is a self-represented litigant. We rigorously review a district court order granting an NRCP 12(b)(5) motion to dismiss, accepting all of the plaintiff's factual allegations as true and drawing every reasonable inference in the plaintiff's favor to determine whether the allegations are sufficient to state a claim for relief. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). A complaint should be dismissed for failure to state a claim "only if it appears beyond a doubt that [the plaintiff] could prove no set of facts, which, if true, would entitle [the plaintiff] to relief." *Id.* at 228, 181 P.3d at 672. An order granting an NRCP 12(b)(5) motion to dismiss and the district court's legal conclusions are reviewed de novo. *Id.*

Here, the district court substantively addressed Sovey's claims and determined that he failed to allege claims for relief pursuant to NRCP 12(b)(5). And on appeal, Sovey fails to present cogent argument as to why he believes the district court erroneously dismissed his claims. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that appellate courts need not consider issues that are not supported by cogent argument). We conclude the district court did not err by determining Sovey failed to allege claims for relief. Although Sovey alleged a 42 U.S.C. § 1983 claim, the substance of his allegations,

including against respondents and those relating to the Fourteenth Amendment, were tort and state claims related to alleged improper enforcement of child support under state law, which is not a cognizable claim under § 1983. *See, e.g., Smith v. City & Cnty. of Honolulu*, 887 F.3d 944, 952 (9th Cir. 2018) (explaining that allegations of a violation of state law are not cognizable under § 1983). Sovey likewise failed to state a breach of contract claim because there is no individual entitlement to TANF benefits. *See* 42 U.S.C. § 601(b); *Navajo Nation v. Dep’t of Health & Hum. Servs., Sec’y*, 325 F.3d 1133, 1135 (9th Cir. 2003) (explaining that TANF explicitly provides that it “shall not be interpreted to entitle any individual or family to assistance”). Sovey’s negligence claim also failed to state a claim for relief as Sovey was relying on NRS 125B.070, which was an old child support statute repealed in 2017. Therefore, Sovey has not demonstrated a basis for relief from the dismissal pursuant to NRCP 12(b)(5).

Furthermore, Sovey argues the district court’s order violated his due process and equal protection rights as the court issued a conclusory dismissal and he was entitled to a full and fair hearing on his allegations. “Due process is satisfied where interested parties are given an opportunity to be heard at a meaningful time and in a meaningful manner.” *Mesi v. Mesi*, 136 Nev. 748, 750, 478 P.3d 366, 369 (2020) (internal quotation marks omitted). “When a district court rules on a dispositive motion, the district court must therefore provide a meaningful opportunity to be heard.” *Id.* Due process may be satisfied through a live hearing but parties may also have a meaningful opportunity to present their case through presentation of affidavits, supporting documents, and motions. *Id.*; *see also Matter of Guardianship of D.M.F.*, 139 Nev. 342, 351, 535 P.3d 1154, 1163 (2023)

(stating that “[n]otice is sufficient to satisfy due process where it is reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections” (internal quotation marks omitted)).

Here, Sovey filed a written opposition to respondents’ motion to dismiss and a supplement to his opposition, in which he presented argument as to why he believed the district court should deny respondents’ motion to dismiss. Sovey also filed a request to disregard respondents’ reply to his opposition. The district court’s written order stated that the court reviewed his arguments. As the record demonstrates, Sovey had notice and a meaningful opportunity to present his opposition to respondents’ motion to dismiss. Thus, Sovey fails to demonstrate that the district court violated his right to due process by granting respondents’ motion to dismiss.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


Bulla, C.J.


Gibbons, J.


Westbrook, J.

cc: Hon. Egan K. Walker, Chief Judge
Second Judicial District Court, Department 4

²Insofar 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.

Jacob D. Sovey
Attorney General/Las Vegas
Washoe District Court Clerk