FILED
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ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDY THOMPSON, Appellant, vs. NEVADA SECRETARY OF STATE, Respondent.	No. 90846

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order dismissing a complaint in an election matter. Eighth Judicial District Court, Clark Co.; Hon. Jacob A. Reynolds, Judge.

Appellant Andy Thompson filed a challenge to the 2024 Nevada General Election, naming respondent Secretary of State as the defendant, and asserting there were irregularities in the election. Thompson specifically asserted the approval of Ballot Question 6 had to be reversed.[1] Thompson further contended respondent Nevada Secretary of State failed to preserve election records and violated Thompson's and other Nevada voters' due process and equal protection rights. Thompson filed the challenge under NRS 293.410, NRS 293.413, and NRS 293.425. The Secretary of State moved to dismiss the action, which the district court granted, finding Thompson could not bring the action under the statutes named by Thompson. This appeal followed.

[1]In his appellate brief, Thompson now also asserts the results related to Ballot Question 3 must be reversed. Thompson did not include this allegation in the complaint or in arguments before the district court, and thus, it is waived. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal.").

Thompson argues the district court misinterpreted the statutes, and a challenge to a ballot question based on irregularities in the election is permitted under those statutes. We review de novo a district court's order granting an NRCP 12(b)(5) motion to dismiss, and such an order is "subject to a rigorous standard of review on appeal," with all alleged facts in the complaint presumed true and all inferences drawn in favor of the complaint. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008) (citation modified). To the extent Thompson's arguments implicate constitutional and statutory interpretation issues, we also review those issues de novo. *See Zahavi v. State*, 131 Nev. 51, 61, 343 P.3d 595, 602 (2015) (noting "[a] de novo standard of review is applied to issues of constitutionality"); *Gold Standard Ventures (US) Inc. v. Thorson*, 142 Nev., Adv. Op. 10, 583 P.3d 985, 987 (2026) (applying de novo review in determining whether a statute conferred standing).

NRS 293.407, NRS 293.410, NRS 293.413, and NRS 293.425 provide the procedure to challenge the election of a candidate for certain offices. *See* NRS 293.407(1) ("A candidate at any election, or any registered voter of the appropriate political subdivision, may contest the election of any candidate . . . ."); NRS 293.425(1) ("If the contest is of the general election for the office of Assemblyman, Assemblywoman or Senator, a statement of contest . . . must be filed with the Secretary of State . . . ."). The statutes Thompson relied on do not permit a challenge to the approval of a ballot question. In fact, a different statute not relied upon by Thompson—NRS 293.403—provides a voter can demand a recount of the vote for a ballot question within three days of the canvass of votes. But Thompson did not avail himself of this recount procedure. And while Thompson makes numerous arguments regarding NRS 293.042, those arguments were not raised before the district court and the

complaint did not seek relief under that statute, so we cannot consider these arguments. *See, e.g., Schuck v. Signature Flight Support of Nev., Inc.*, 126 Nev. 434, 437, 245 P.3d 542, 544 (2010) ("Parties may not raise a new theory for the first time on appeal, which is inconsistent with or different from the one raised below."); *Old Aztec Mine*, 97 Nev. at 52, 623 P.2d at 983. Thus, we conclude the district court did not err in granting the Secretary of State's motion to dismiss because taking all the factual allegations in the complaint as true and drawing every inference in Thompson's favor, Thompson can prove no set of facts that would entitle him to relief under the statutes as pleaded. *See Buzz Stew, LLC*, 124 Nev. at 227-28, 181 P.3d at 672.

Finally, Thompson makes several arguments related to the district court's dismissal of Thompson's motion regarding preservation of evidence and alleged spoliation. Because Thompson did not properly serve the motion on or join necessary parties under NRCP 19, we conclude the district court did not err. And because Thompson failed to comply with the procedural requirements, we need not address the merits of the remaining arguments raised in the motion to preserve evidence. *See Rodriguez v. Fiesta Palms, LLC,* 134 Nev. 654, 659, 428 P.3d 255, 258-59 (2018) (noting there are no special rules for pro se litigants and explaining that "a pro se litigant cannot use his alleged ignorance as a shield to protect him from the consequences of failing to comply with basic procedural requirements"), *holding modified on other*

grounds by Willard v. Berry-Hinckley Indus., 136 Nev. 467, 469 P.3d 176 (2020). We therefore

ORDER the judgment of the district court AFFIRMED.[2]



Bell, J.



Stiglich, J.



Cadish, J.

cc: Hon. Jacob A. Reynolds, District Judge
Attorney General/Carson City
Andy Michael Thompson
Eighth Judicial District Court Clerk

[2]To the extent Thompson argues the district court was biased, the record does not support such an argument. Additionally, given this order, Thompson's motion to expedite decision of the appeal and for conditional interim injunction pending appeal is denied as moot.