IN THE SUPREME COURT OF THE STATE OF NEVADA

KATHY CARLENE STEELE,
Appellant,
vs.
KATHLEEN HARDING,
Respondent.

No. 42782

FILED

DEC 13 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order granting summary judgment.[1] Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge.

In September of 2001, appellant was arrested and subsequently convicted of trespassing in the Four Way Casino in Elko, Nevada, where respondent worked as a manager. In her civil complaint, appellant alleged numerous causes of action against respondent for allegedly harmful conduct during the evening of the arrest and subsequent criminal proceedings. Appellant claimed, among other things, that respondent accused her of criminally trespassing as a pretext for preventing appellant from pursuing any future solicitation or prostitution activities in the casino, activities which appellant denies ever having committed. The district court considered respondent's motion to dismiss or in the alternative motion for summary judgment and granted summary judgment in respondent's favor. On appeal, appellant argues, among

[1]Although appellant untimely filed her court-allowed opening brief, we have nevertheless considered the brief and several subsequent notices of corrections when resolving this appeal. We direct the clerk to file appellant's opening brief, addendum, and corrections received on August 23, 2006, August 28, 2006, September 6, 2006 and November 6, 2006.

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other things, that the district court erred when it granted respondent's motion for summary judgment.

We review a district court's grant of summary judgment de novo.[2] Summary judgment is appropriate when the pleadings and other evidence on file demonstrate that no genuine issue of any material fact remains and that the moving party is entitled to a judgment as a matter of law.[3]

Having reviewed the record on appeal and appellant's opening brief, we conclude that the district court did not err when it granted respondent's motion for summary judgment. Appellant named but did not plead any facts in support of her claims for conversion and negligence, and therefore summary judgment in respondents' favor is appropriate on these claims. Summary judgment is also appropriate on the claims for abuse of process and malicious prosecution,[4] as these claims are precluded by the doctrine of res judicata since appellant was convicted of trespassing.[5] Further, summary judgment is appropriate when appellant failed to sufficiently allege all the required elements and/or did not allege facts in support of her claims for defamation (libel and slander),[6] assault and

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[2]See Wood v. Safeway, Inc., 121 Nev. 724, 121 P.3d 1026 (2005).

[3]Id.

[4]See LaMantia v. Redisi, 118 Nev. 27, 30, 38 P.3d 877, 879 (2002) (stating elements necessary to sustain claims for abuse of process and malicious prosecution).

[5]Executive Mgmt. v. Ticor Title Ins. Co., 114 Nev. 823, 963 P.2d 465, (1998).

[6]See Pope v. Motel 6, 121 Nev. 307, 114 P.3d 277 (2005) (requiring, among other elements, that statement alleged to be defamatory must be unprivileged).

battery,[7] disparagement,[8] false imprisonment,[9] intentional infliction of emotional distress,[10] interference with contractual relations,[11] invasion of privacy,[12] misrepresentation,[13] strict liability for abnormally dangerous

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[7]See Olivero v. Lowe, 116 Nev. 395, 995 P.2d 1023 (2000) (discussing claims for battery and assault).

[8]See Collins v. Union Fed. Savings & Loan, 99 Nev. 284, 662 P.2d 610 (1983); see also Restatement (Second) of Torts §629 (1965) (stating that "statement is disparaging if it is understood to cast doubt upon the quality of another's land, chattels or intangible things, or upon the existence or extent of his property in them, and (a) the publisher intends the statement to cast the doubt, or (b) the recipient's understanding of it as casting the doubt was reasonable").

[9]See Hernandez v. City of Reno, 97 Nev. 429, 433, 634 P.2d 668, 671 (1981) (requiring, among other elements, that plaintiff alleges that defendants' actions of alleged confinement harmed plaintiff).

[10]See Miller v. Jones, 114 Nev. 1291, 970 P.2d 571 (1998) (requiring, among other elements, that plaintiff alleged that defendant's conduct was extreme and outrageous, with either intent to cause emotional distress or reckless disregard for causing it.

[11]See Hilton Hotels v. Butch Lewis Productions, 109 Nev. 1043, 1048, 862 P.2d 1207, 1210 (1993) (requiring, among other elements, that defendant had knowledge of plaintiff's alleged contractual relations).

[12]See PETA v. Bobby Berosini, Ltd., 111 Nev. 615, 895 P.2d 1269 (1995) (listing four types of invasion of privacy torts: unreasonable intrusion upon seclusion of another; intrusion upon name or likeness of another; unreasonable publicity given to private facts; and publicity unreasonably placing another in false light before public; although appellant did not designate a specific type of intrusion of privacy tort in her complaint, appellant failed to allege all the required elements and/or did not allege facts in support of any type invasion of privacy torts).

[13]See Hampe v. Foote, 118 Nev. 405, 47 P.3d 438 (2002) (noting an absolute privilege for statements made in judicial proceedings).

conditions and activities,[14] trespass to chattel[15] and discrimination.[16] Finally, although appellant also asserted a claim for "prima facie tort", no such cause of action exists and therefore summary judgment was appropriate on this claim. Accordingly, we affirm the district court's order.[17]

It is so ORDERED.

Becker, J.
Becker

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

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[14]See Valentine v. Pioneer Chlor Alkali Co., 109 Nev. 1107, 864 P.2d 295 (1993) (requiring, among other elements, that defendant carried on an abnormally dangerous activity that risked harm to the person, land or chattel of plaintiff).

[15]See Rahis v. McLeod, 45 Nev. 380, 204 Pac. 501 (1922); see also Restatement (Second) of Torts §218 (1965) (listing, among other elements of trespass to chattel tort, that the chattel is impaired as to its condition, quality, or value). We note that it is not clear that an action for trespass to chattel remains a viable cause of action after our opinion in Bader v. Cerri, 96 Nev. 352, 609 P.2d 314 (1980), but since appellant failed to properly plead the claim, we need not consider this issue.

[16]Appellant failed to allege that she was a member of a protected class and that she sustained damages as a result of the alleged discrimination. See 42 U.S.C. § 2000a (2001) (listing protected classes).

[17]We have considered appellant's other arguments and conclude that they lack merit.

cc: Hon. Andrew J. Puccinelli, District Judge
Kathy Carlene Steele
Michelle L. Rodriguez
Elko County Clerk