Appendix A

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN ELVIN TURNER,
Appellant,
vs.
THE STATE OF NEVADA; LAS VEGAS METROPOLITAN POLICE DEPARTMENT; DISTRICT ATTORNEY'S OFFICE; N.D.O.C.; H.D.S.P.; E.S.I.; C.C.D.C.; AND S.D.C.C.,
Respondents.

No. 74752

ORDER OF AFFIRMANCE

John Elvin Turner appeals from a district court order dismissing a civil rights action. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

Turner contends that respondents, in their official and individual capacities, violated his First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendment rights, amongst other allegations. Turner's claims all stem from conduct that took place while he was purportedly wrongfully incarcerated based on a conviction in an unrelated criminal case, as he alleges that he was subjected to a number of due process violations and torts while falsely imprisoned. The district court dismissed Turner's civil rights complaint for failure to state a claim upon which relief could be granted and this appeal followed. Having considered the record and Turner's informal brief, we conclude that the district court did not err in dismissing the instant action.

First, as the district court concluded, to the extent Turner has named numerous state agencies and officials acting in their official capacities, his civil rights complaint pursuant to 42 U.S.C. § 1983 fails. As

relevant here, "neither states nor their officials acting in their official capacities are persons under 42 U.S.C. § 1983 and therefore neither may be sued in state courts under the federal civil rights statutes." *See N. Nev. Ass'n of Injured Workers v. Nev. State Indus. Ins. Sys.*, 107 Nev. 108, 114, 807 P.2d 728, 732 (1991) (citing *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989)). Accordingly, we affirm the district court's dismissal as to those named defendants.

With regard to Turner's claims against the remaining respondents in their individual capacities, the district court dismissed the complaint concluding that Turner's claims were barred by the statute of limitations, and he therefore failed to state a claim upon which relief could be granted. In Nevada, the statute of limitations for an action pursuant to 42 U.S.C. § 1983 is two years. *Day v. Zubel*, 112 Nev. 972, 977, 922 P.2d 536, 539 (1996) (citing *Perez v. Seevers*, 869 F.2d 425, 426 (9th Cir.)); *see also* NRS 11.190(4)(e).

On appeal, Turner argues only that his complaint was improperly dismissed because he can prove a set of facts "beyond doubt" that would entitle him to relief. However, the district court's basis for dismissal was that the claims were barred by the statute of limitations. Our review of the record indicates that Turner's complaint alleges the conduct at issue occurred in 2012 and 2013, but Turner's complaint was not filed until June 29, 2017, well beyond the two-year statute of limitations. Because Turner fails to raise any arguments addressing the grounds relied on by the district court in dismissing his complaint, he has waived any such challenge and we necessarily must affirm the district court's dismissal. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) ("Issues not raised in an appellant's opening brief are deemed

waived.").[1] Moreover, Turner has failed to offer any cogent arguments as to how any of the alleged conduct at issue amounts to a violation of his constitutional rights. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (concluding that this court need not consider issues that are not cogently argued). Accordingly, we affirm the district court's dismissal of Turner's complaint.

It is so ORDERED.[2]

_____, C.J.
Silver

_____, J.
Tao

_____, J.
Gibbons

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[1]To the extent Turner's appellate arguments could be read as contending that his complaint was timely because it was filed within two years of the date of his release from prison, this argument is unpersuasive. The date Turner was released following the dismissal of his criminal case is irrelevant. Rather, the date Turner's criminal case was dismissed with prejudice would have started the time on any unlawful imprisonment claim. *See Day*, 112 Nev. at 977-98, 922 P.2d at 539 (holding that "the statute of limitations commences upon final termination of the original criminal proceeding," and a dismissal with prejudice constitutes such a final termination). Moreover, Turner failed to plead an unlawful imprisonment claim; instead, his complaint asserts causes of action for alleged constitutional violations that occurred during his confinement.

[2]We have considered Turner's remaining arguments on appeal and have determined they do not warrant relief. We also deny Turner's motion for stay.

cc: Hon. Mark R. Denton, District Judge
John Elvin Turner
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk

Appendix C

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN ELVIN TURNER,
Appellant,
vs.
THE STATE OF NEVADA; LAS VEGAS METROPOLITAN POLICE DEPARTMENT; DISTRICT ATTORNEY'S OFFICE; N.D.O.C.; H.D.S.P.; E.S.I.; C.C.D.C.; AND S.D.C.C.,
Respondents.

No. 74752

FILED

NOV 16 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.[1]

Silver, C.J.

Tao, J.

Gibbons, J.

cc: Hon. Mark R. Denton, District Judge
John Elvin Turner
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk

[1]Having considered all other requests for relief currently pending in this matter, we conclude they should be denied.

18-904516

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ELVIN TURNER,
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THE STATE OF NEVADA; LAS VEGAS METROPOLITAN POLICE DEPARTMENT; DISTRICT ATTORNEY'S OFFICE; N.D.O.C.; H.D.S.P.; E.S.I.; C.C.D.C.; AND S.D.C.C.,
Respondents.

No. 74752

FILED

JAN 24 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION FOR REVIEW

Having considered appellant's petition seeking our review of the court of appeals' decision in this matter, we conclude that appellant has not demonstrated that our review is warranted. *See* NRAP 40B(a). We therefore deny the petition.

It is so ORDERED.[1]

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Cadish, J.
Cadish

cc: Hon. Mark R. Denton, District Judge
John Elvin Turner
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk

[1]The Honorables Mark Gibbons, Chief Justice, and Abbi Silver, Justice, did not participate in the decision of this matter.

Additional material from this filing is available in the Clerk's Office.