

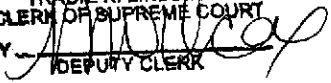
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONALD FERLINGERE,  
Appellant,  
vs.  
MA IMEE J. LATO F/K/A MA IMEE L.  
FERLINGERE,  
Respondent.

No. 67613

**FILED**

**AUG 31 2015**

TRACE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court judgment following a bench trial in an action for conversion of personal property. Third Judicial District Court, Lyon County; Leon Aberasturi, Judge.

In the challenged order, the district court found that appellant failed to meet his burden of proof with regard to his underlying claims. As a result, the district court denied appellant any relief on those claims, including his request for attorney fees and costs. On appeal, appellant does not address any of the findings or conclusions set forth in the challenged order, and thus, he has waived any arguments with regard to these determinations. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (explaining that an issue not raised on appeal is deemed waived).

Instead, on appeal, appellant argues that the district court's judgment should be reversed, with judgment entered in his favor, because respondent failed to respond to his "AFFIDAVIT OF TRUTH" in a timely fashion. Even assuming there was a legal basis for appellant to obtain a judgment against respondent based on respondent's purported failure to respond to this document, the record indicates that this document was not

presented to the district court prior to its entry of the challenged judgment, and thus, it is not properly before us on appeal for the purpose of reviewing that judgment. See *Carson Ready Mix, Inc. v. First Nat'l Bank of Nev.*, 97 Nev. 474, 476-77, 635 P.2d 276, 277 (1981) (noting that this court may only consider matters properly appearing in the record on appeal). Indeed, the first appearance of this document in the record is when it was filed in the district court as an attachment to appellant's notice of appeal, but once the notice of appeal was filed, the district court was without jurisdiction to take any further action with regard to the judgment at issue in this appeal. See *Rust v. Clark Cnty. Sch. Dist.*, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987) ("[A] timely notice of appeal divests the district court of jurisdiction to act and vests jurisdiction in [the appellate] court."). Finally, to the extent appellant's argument can be construed as asserting that this court should reverse the underlying judgment based on respondent's asserted failure to respond to this document, the rules governing this court do not provide for any such action.<sup>1</sup> See generally Nevada Rules of Appellate Procedure.


Appellant also vaguely suggests that this court should reverse the underlying judgment based on certain admissions respondent purportedly made. Because appellant fails to provide any explanation as to when or how these admissions were made, we need not consider this contention. See *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288, n.38 (2006) (stating that the court need not address issues that are not cogently argued). Nonetheless, to the extent


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<sup>1</sup>For the same reasons, we deny appellant's July 22, 2015, motion for a default judgment as the rules governing this court do not provide for any such action. See generally Nevada Rules of Appellate Procedure.

that this argument is based on the requests for admissions that appellant filed in district court on February 2, 2015, nothing in the record indicates appellant ever served this document on respondent. *See* NRCP 36(a) (setting the time for which a party must reply to requests for admission as running from the date of service of the request for admissions). And it does not appear from the record that appellant took any further action regarding these requests after their filing in the district court, as the next document in the record on appeal is the final judgment in the underlying case.

Accordingly, for the reasons set forth above, we  
ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Leon Aberasturi, District Judge  
Ronald Ferlingere  
John Lee Carrico, Jr.  
Third District Court Clerk

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<sup>2</sup>In light of our resolution of this matter, we deny as moot all requests for relief currently pending in this appeal.