

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARGARET ILENE PULLEN,
Appellant,
vs.
A & A TOWING; WASHOE SHERIFF
ABIGAIL BIGGAR; AND WASHOE
SHERIFF HEIDI PICKARD,
Respondents.

No. 72876

FILED

NOV 15 2017

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

ORDER OF AFFIRMANCE

Margaret Ilene Pullen appeals from district court orders granting summary judgment and/or dismissal in favor of respondents A & A Towing and Washoe County Sherriff Deputies Abigail Biggar and Heidi Pickard. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Pullen filed a complaint against A & A apparently alleging fraud and against Biggar and Pickard, which seemingly alleged fraud, false arrest, false imprisonment, and defamation, among other things.¹ Thereafter, A & A moved to dismiss the fraud claim against it and, in a separate motion, Biggar and Pickard also sought dismissal or summary judgment on Pullen's claims against them. Pullen failed to oppose A & A's motion, but did file an opposition to the motion filed by Biggar and Pickard. The district court ultimately granted both motions, through separate orders, and this appeal followed.

¹The complaint was not completely clear as to the specific nature of the causes of action Pullen was asserting.


In seeking dismissal, A & A argued, among other things, that Pullen failed to plead fraud with particularity as required by NRCP 9, and the district court correctly determined that Pullen failed to do so.² See NRCP 9(b) (requiring that “the circumstances constituting fraud . . . shall be stated with particularity”). Moreover, because Pullen failed to oppose A & A’s motion in the district court, any arguments regarding the propriety of this determination are not properly before us on appeal. 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.”). Accordingly, we conclude the district court did not err in dismissing Pullen’s claims against A & A on this basis and we therefore affirm that determination. See *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008) (providing that an order granting an NRCP 12(b)(5) motion to dismiss is reviewed de novo).


With respect to the order granting Biggar and Pickard’s motion for summary judgment, Pullen’s appellate brief is largely unintelligible and

²While the district court purported to convert A & A’s motion to dismiss into a summary judgment motion and consider documents outside of the pleadings, those materials were irrelevant to the determination of whether fraud was properly pled. And because the district court properly granted A & A’s motion on that basis, it was not necessary for the court to consider those documents or convert the motion. As a result, to the extent the district court failed to provide Pullen an opportunity to present all material made pertinent by its unnecessary conversion of this motion, any potential error was harmless. See NRCP 61 (requiring the court, at every stage of a proceeding, to disregard errors that do not affect a party’s substantial rights).

it is difficult to decipher what she is arguing.³ As such, Pullen has failed to provide cogent argument challenging the grounds on which summary judgment was granted to Biggar and Pickard and thus, we affirm the grant of summary judgment on this basis. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (stating that appellate courts need not consider issues that are not cogently argued).

It is so ORDERED.⁴


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Kathleen Drakulich, District Judge
Margaret Ilene Pullen
Winter Street Law Group
Washoe County District Attorney/Civil Division
Washoe District Court Clerk

³To the extent that Pullen does make arguably cogent points, they do not address the grounds on which summary judgment was granted or are otherwise without merit such that they do not provide a basis for relief.

⁴In light of our resolution of this matter, we deny as moot Pullen's additional requests for relief.