

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CLARENCE M. WILLIS,
Appellant,
vs.
ALDRIDGE PITE, LLP; LAUREL I.
HANDLEY; AND KRISTA J. NIELSON,
Respondents.

No. 74823-COA

FILED

DEC 20 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Clarence M. Willis appeals from a district court order dismissing his complaint in a real property action. Third Judicial District Court, Lyon County; Leon Aberasturi, Judge.

Willis sued respondents Aldridge Pite, LLP, Laurel I. Handley, and Krista J. Nielson, alleging that he owned certain real property and that respondents improperly recorded a notice of pendency of action against the property in connection with an action before the United States District Court for the District of Nevada. Based on those allegations, Willis asserted claims for improper use of a notice of pendency of action and for slander of title, and he further moved the district court to cancel the notice. Respondents moved to dismiss, arguing, as relevant here, that the court in the federal action was exercising jurisdiction over the subject real property and that the district court in the underlying proceeding therefore lacked jurisdiction to consider Willis' complaint under the prior-exclusive-jurisdiction doctrine. Willis opposed that motion, but the district court agreed with respondents, denied his motion to cancel the notice of pendency of action, and dismissed his claims. This appeal followed.


On appeal, Willis challenges that decision, arguing that respondents defaulted and that the district court should have evaluated the validity of their notice of pendency of action pursuant to NRS 14.015 (setting forth the procedure for adjudicating challenges to such notices) and DCR 13(6) (requiring factual contentions in pre-trial motions to be supported with affidavits), rather than assessing whether it had jurisdiction to consider the matter. But once the district court determined that it lacked subject matter jurisdiction, the court was required to dismiss, as it could not render a decision regarding the validity of respondents' notice of pendency of action without jurisdiction. *See Landreth v. Malik*, 127 Nev. 175, 179, 251 P.3d 163, 166 (2011) (recognizing that, when the district court grants substantive relief without jurisdiction to do so, its order is void). And the district court was authorized to consider its subject matter jurisdiction over Willis' complaint, even if respondents defaulted. *See id.* (providing that subject matter jurisdiction "cannot be conferred by the parties" and that courts can consider whether subject matter jurisdiction is lacking *sua sponte*).


As to the district court's conclusion that it lacked subject matter jurisdiction under the prior-exclusive-jurisdiction doctrine, which "holds that, when one court is exercising *in rem* jurisdiction over a *res*, a second court will not assume *in rem* jurisdiction over the same *res*," *see Chapman v. Deutsche Bank Nat'l Tr. Co.*, 129 Nev. 314, 317, 302 P.3d 1103, 1105 (2013) (internal quotation marks omitted), Willis only challenges the applicability of that doctrine insofar as he baldly asserts that the federal court could not properly exercise jurisdiction over the subject real property under Nevada law. But because Willis does not dispute that the federal case concerned the subject real property and was ongoing at the time of the

underlying proceeding, he failed to demonstrate that the district court in the present case erred in applying the prior-exclusive-jurisdiction doctrine.¹ *See id.*; *see also Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009) (providing that subject matter jurisdiction is a question of law subject to de novo review).

Given the foregoing and because Willis does not otherwise challenge the dismissal of his complaint, he has not established that the district court violated his right to access the courts. *See Lewis v. Casey*, 518 U.S. 343, 349 (1996) (explaining, in the context of inmate litigation, that when a plaintiff brings an access-to-the-courts claim, the plaintiff must prove an actual injury). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Leon Aberasturi, District Judge
Clarence M. Willis
Aldridge Pite, LLP
Third District Court Clerk

¹For the same reason, insofar as Willis asserts that the federal court denied a motion to cancel the notice of pendency of action that he filed in the federal action, relief is unwarranted.