

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES A. MATZ, AN INDIVIDUAL,
Appellant,

vs.

JUANITA MATZ, AN INDIVIDUAL;
JAMES A. MATZ, AN INDIVIDUAL;
WESTERN PROGRESSIVE-NEVADA,
INC., A FOREIGN CORPORATION OF
UNKNOWN NATURE; OCWEN LOAN
SERVICING, LLC, A FOREIGN
LIMITED LIABILITY COMPANY;
WELLS FARGO BANK, NATIONAL
ASSOCIATION, A FOREIGN
CORPORATION OF UNKNOWN
NATURE; AND MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., A FOREIGN
CORPORATION OF UNKNOWN
NATURE,

Respondents.

No. 79280-COA

FILED

AUG 24 2020

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

ORDER OF AFFIRMANCE

James Matz appeals from a district court order granting dismissal and summary judgment in a real property action.¹ Eighth Judicial District Court, Clark County; James Crockett, Judge.

James and Juanita Matz filed a lawsuit against, as relevant here, respondents Western Progressive-Nevada, Inc., Ocwen Loan

¹Not all defendants named below made appearances in the district court. As a result, these defendants never became parties to the case, and thus, they are not proper parties to this appeal. See *Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 448, 874 P.2d 729, 735 (1994) (explaining that a person who is not served with process and does not make an appearance in the district court is not a party to that action). We therefore direct the clerk of the court to amend the caption of this case to conform to the caption on this order.

Servicing, LLC, Wells Fargo Bank National Association, and Mortgage Electronic Registration Systems, Inc. The complaint concerned property which Juanita bought with a loan secured by a deed of trust and which she and James lived in. The Matzes' complaint included a cause of action for declaratory relief on behalf of Juanita, and separate adverse possession claims on behalf of Juanita and James. Respondents include the original beneficiary of the deed of trust, the current beneficiary, the loan servicer and the foreclosure trustee.

Respondents moved for dismissal and/or summary judgment, which James and Juanita opposed.² The opposition, however, essentially only addressed the request for dismissal and did not explicitly address the request for summary judgment. The district court granted both dismissal and summary judgment. With regard to James' adverse possession claim, the district court found that there was nothing adverse about his possession of the property with regard to the respondents' secured deed of trust and that he failed to provide any legal authority to support bringing an adverse possession claim against parties who were not competing owners of the property. This appeal by James followed.

On appeal, James fails to challenge the district court's finding that his possession of the property was not adverse to respondents because they do not claim an ownership interest in the property. He has therefore waived any such challenge. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (stating that issues not raised in appellant's opening brief are waived). And because his possession must be adverse or hostile to an owner's possession in order to establish

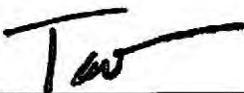
²Although both James and Juanita opposed the motion, only James has appealed from the resulting dismissal and summary judgment on the parties' underlying claims. As a result, we address only the grounds for dismissal and summary judgment as to James' claims.

ownership of the property pursuant to a claim for adverse possession, this claim necessarily fails. *See Triplett v. David H. Fulstone Co.*, 109 Nev. 216, 219, 849 P.2d 334, 336 (1993) (stating that an adverse possessor is required to show that occupation of the property is hostile).

James further asserts that his attorney was barely allowed to speak at the hearing on respondents' motion, but he fails to explain what arguments his attorney would have provided had additional discussion at the hearing been allowed or how any such argument would have changed the outcome of the challenged order. As a result, James has failed to provide cogent arguments on this point and we therefore need not consider this argument. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues that are not supported by cogent argument). Based on the reasoning set forth above, James has failed to present a basis for relief, and we therefore

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

³To the extent that this order does not specifically address other arguments raised by James, we have considered them and conclude they do not present a basis for relief.

cc: Hon. James Crockett, District Judge
James A. Matz
Schwab Law Firm PLLC
Houser & Allison, APC
Eighth District Court Clerk