

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LORI IRISH,
Appellant,
vs.
GEORGE BURNS, INDIVIDUALLY,
AND AS DESERT TRAILS
COMMUNITY ASSOCIATION BOARD
MEMBER; LAURA ROBERT-BURNS;
DESERT TRAILS COMMUNITY
ASSOCIATION; AND SIERRA
COMMUNITY MANAGEMENT, LLC,
Respondents.

No. 82675-COA

FILED

FEB 04 2022

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

ORDER OF AFFIRMANCE

Lori Irish appeals from a district court order dismissing a complaint in a tort action. Eighth Judicial District Court, Clark County; Bita Yeager, Judge.

Irish filed the underlying action against respondents—including the homeowners' association (HOA) for a property in which Irish resided but did not own—in connection with various neighborhood disputes and personal interactions. In the operative complaint, Irish purported to set forth various causes of action, including abuse of process, civil conspiracy, intentional infliction of emotional distress, breach of fiduciary duty, and intentional interference with prospective economic advantage. Respondents filed a motion to dismiss Irish's complaint under NRCP 8(a) and 12(b)(5), which the district court summarily granted over Irish's opposition. This appeal followed.

As a preliminary matter, we note that the district court's order of dismissal did not set forth any specific rationale for its decision; rather, the order simply provided that "[b]ased on the pleadings and papers on file

herein, and after hearing oral arguments on February 18, 2021, it is hereby ordered that [respondents'] Motion to Dismiss Plaintiff's Amended Complaint is GRANTED." And even though we generally review the dismissal of a complaint for failure to state a claim de novo, *Fausto v. Sanchez-Flores*, 137 Nev., Adv. Op. 11, 482 P.3d 677, 679 (2021), "[w]ithout an explanation of the reasons or bases for a district court's decision, meaningful appellate review, even a deferential one, is hampered." *Jitnan v. Oliver*, 127 Nev. 424, 433, 254 P.3d 623, 629 (2011).

Nevertheless, Nevada district courts are not required to state findings of fact or conclusions of law when ruling on a motion to dismiss for failure to state a claim, but they are encouraged to state their reasons for doing so on the record. See NRCP 52(a)(3). Further, our supreme court has held that "[w]here findings of fact and conclusions of law are not required by NRCP 52(a), namely, a ruling on a motion, the record must nonetheless indicate the support for the lower court's decision in order for this court to sustain the court's ruling on appeal." *In re Estate of Williams*, 109 Nev. 941, 943, 860 P.2d 166, 168 (1993). And while a district court's oral pronouncements are generally ineffective for any purpose as a substantive matter, see *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987), they can nevertheless aid this court in construing a vague or ambiguous order to the extent they are consistent with the disposition. See *Holt v. Reg'l Tr. Servs. Corp.*, 127 Nev. 886, 895, 266 P.3d 602, 608 (2011).

Problematically, although Irish complied with her duty under the Nevada Rules of Appellate Procedure to request a transcript of the February 18, 2021, hearing on respondents' motion to dismiss, she failed to file a copy of the transcript with the clerk of the Nevada Supreme Court, despite the fact that the court reporter for Department 1 of the Eighth

Judicial District Court filed a notice with the supreme court reflecting that she had sent the transcript to Irish. See NRAP 9(b) (providing that “[a] pro se appellant in a civil appeal shall identify and request all necessary transcripts”), (b)(1)(B) (providing that, upon receiving the transcript from the court reporter, the appellant “shall file a copy of the transcript with the clerk of the Supreme Court”). And the transcript does not otherwise appear in the record on appeal. Accordingly, Irish has failed to meet her burden to provide this court with an adequate appellate record, and we therefore presume the missing transcript supports the district court’s decision. See *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007).

Even setting this presumption aside, however, the record reflects that respondents sought dismissal of Irish’s claims on various legal grounds, including that her complaint failed to set forth a short and plain statement of her claims and that her allegations fail to satisfy the legal elements of her claims. See NRCP 8(a)(2) (providing that, in order for a pleading to state a claim for relief, it must contain “a short and plain statement of the claim showing that the pleader is entitled to relief”); NRCP 12(b)(5) (setting forth “failure to state a claim upon which relief can be granted” as grounds for dismissal); *Stockmeier v. State, Dep’t of Corr.*, 124 Nev. 313, 316, 183 P.3d 133, 135 (2008) (“Dismissal is proper where the allegations [in the complaint] are insufficient to establish the elements of a claim for relief.” (internal quotation marks omitted)). Assuming the district court was persuaded by these arguments, Irish has failed to persuade this court that the district court erred. See *Fausto*, 137 Nev., Adv. Op. 11, 482 P.3d at 679.

In her informal brief, Irish fails to meaningfully discuss the elements of any of her claims or explain how she adequately pleaded them. Instead, she vaguely alleges that respondents lied and defamed her in their submissions to the district court, which is not a cogent challenge to the dismissal of her claims.¹ See *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that the appellate courts need not consider claims unsupported by cogent argument). Irish further argues that because she is a pro se plaintiff, the district court was required to give her adequate notice of her complaint's deficiencies and an opportunity to amend, and it failed to do so. But Irish had sufficient notice of the legal reasons on which the district court presumably relied, as the parties engaged in full briefing and attended a hearing on respondents' motion to dismiss.² Moreover, just as she fails to discuss the elements of

¹Irish does contend that if the district court relied on the mediation requirement set forth in NRS 38.310 in dismissing her complaint, such reliance was error, as that statute supposedly applies only to homeowners within an HOA, which Irish was not. But Irish conceded below that she did not own the relevant property, and respondents only asserted an alternative argument for dismissal based upon NRS 38.310 in light of conflicting statements Irish had made concerning whether she was a trustee of the CGI Trust, the trust in which the property is held. Respondents maintained that NRS 38.310 was applicable only if Irish possessed an ownership interest in the home by virtue of being a trustee. Regardless, in light of Irish's failure to provide this court with an adequate record or any cogent argument concerning the substantive merits of her claims, we need not address this issue further.

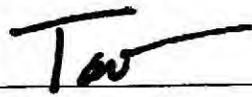
²To the extent Irish contends reversal is warranted on grounds that the district court's order lacked specificity, that argument fails under the considerations set forth above concerning NRCP 52(a). See *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 659, 428 P.3d 255, 258-59 (2018) (noting that the rules of civil procedure generally cannot be applied differently based solely on a party's pro se status and that "a pro se litigant cannot use

her claims as pleaded, Irish likewise fails to discuss how amendment would allow her to satisfy Nevada's pleading standards. *See Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 289, 357 P.3d 966, 973 (Ct. App. 2015) (noting that leave to amend need not be granted if the proposed amendment would be futile).

In light of the foregoing, Irish fails to demonstrate that reversal is warranted, and we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao

cc: Hon. Bitá Yeager, District Judge
Lori Irish
Boyack Orme Anthony & McKeiver
Eighth District Court Clerk

h[er] alleged ignorance as a shield to protect h[er] from the consequences of failing to comply with basic procedural requirements”).

³The Honorable Bonnie Bulla, Judge, did not participate in the decision of this matter.