

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AMANDA LEE VARON MCCLELLAND,  
Appellant,  
vs.  
THE STATE OF NEVADA; AND  
DEPARTMENT OF HUMAN AND  
HEALTH SERVICES,  
Respondents.

No. 86423-COA

**FILED**

**AUG 11 2023**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Amanda Lee Varon McClelland appeals from a district court order dismissing a civil action. First Judicial District Court, Carson City; James E. Wilson, Judge.

McClelland filed an amended complaint on January 12, 2023, in which she raised causes of action on behalf of her biological child, alleged a violation of her civil rights, requested a restoration of her parental rights because she believed they were terminated based on inaccurate information, and alleged she suffered unspecified trauma and that the respondents caused irreparable damage to her.

On February 15, 2023, the respondents moved to dismiss McClelland's amended complaint.<sup>1</sup> First, the respondents argued that the district court lacked jurisdiction concerning the causes of action McClelland

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<sup>1</sup>On appeal, McClelland appears to argue that the State's motion to dismiss should not have been considered by the district court because it was untimely. However, McClelland's argument lacks merit because the respondents' motion to dismiss the amended complaint was timely filed. See NRCP 12(a)(2), (3); NRCP 12(b).

raised on behalf of her biological child because she did not pursue them in the name of the real party in interest as required by NRCP 17(a) and because McClelland lacked standing to sue on behalf of the child as her parental rights had been terminated. Second, the respondents argued that McClelland failed to state a claim as to a violation of her civil rights because she did not sue any individuals and she may not pursue a civil rights action for money damages solely against the State of Nevada and its entity. Third, the respondents argued that McClelland may not pursue restoration of her parental rights via the amended complaint. Fourth, the respondents argued that McClelland's causes of action based on unspecified trauma and irreparable damage did not constitute a coherent demand for relief and that her bare allegations failed to state a claim for which relief could be granted.

McClelland opposed the motion to dismiss and reiterated that her parental rights were terminated based on inaccurate information. The district court granted the respondents' motion and dismissed the amended complaint. This appeal followed.

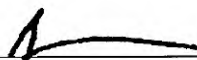
An order granting an NRCP 12(b)(5) motion to dismiss is reviewed de novo. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008); *see also Shoen v. SAC Holding Corp.*, 122 Nev. 621, 634, 137 P.3d 1171, 1180 (2006) (noting that when a plaintiff lacks standing, it is appropriate to dismiss the complaint for failure to state a claim), *abrogated on other grounds by Guzman v. Johnson*, 137 Nev. 126, 132, 483 P.3d 531, 537 (2021), and *Chur v. Eighth Judicial Dist. Court*, 136 Nev. 68, 72, 458 P.3d 336, 340 (2020). A decision to dismiss a complaint under NRCP 12(b)(5) is rigorously reviewed on appeal with all alleged facts in the complaint presumed true and all inferences drawn in favor of the plaintiff. *Buzz Stew*, 124 Nev. at 227-28, 181 P.3d at 672. Dismissing a

complaint is appropriate “only if it appears beyond a doubt that [the plaintiff] could prove no set of facts, which, if true, would entitle [the plaintiff] to relief.” *Id.* at 228, 181 P.3d at 672.

On appeal, McClelland concedes that the district court appropriately dismissed her amended complaint on jurisdictional grounds. Moreover, McClelland does not provide cogent argument concerning the district court’s additional reasons for dismissing her amended complaint. Because McClelland concedes the jurisdictional issue, has neglected to address any specific contention of error in her brief or otherwise address the grounds the district court relied on to dismiss her remaining claims, and has failed to set forth any cogent argument in support of her appellate concerns, we need not consider her bare allegations. *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). Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

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<sup>2</sup>Insofar as McClelland raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.

cc: Hon. James E. Wilson, District Judge  
Amanda Lee Varon McClelland  
Attorney General/Carson City  
Attorney General/Reno  
Carson City Clerk