

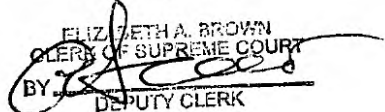
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JONATHAN A. ALLEN, AN
INDIVIDUAL,
Appellant,
vs.
ANTHONY B. WILLIAMS, AN
INDIVIDUAL,
Respondent.

No. 86260-COA

FILED

APR 22 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Jonathan A. Allen appeals from a district court summary judgment in a real property and tort action. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

Respondent Anthony B. Williams sued Allen, asserting claims for, as relevant here, quiet title and slander of title. For support, Williams alleged that Allen was attempting to sell real property that was owned by Williams' deceased father based on "a rogue [q]uitclaim [d]eed" that Allen recorded purporting to transfer title to the property from Williams' father to Allen.

Williams eventually moved for summary judgment, arguing that documentation attached to his motion established that Allen fraudulently executed the quitclaim deed and associated documents and that there was therefore no genuine dispute of material fact precluding summary judgment on Williams' claims for quiet title and slander of title.

In particular, Williams provided, as relevant here, a letter from the Nevada Secretary of State's office indicating that the notary who notarized the quitclaim deed admitted that Allen signed Williams' father's name on the deed, as well as a report from a handwriting expert who stated that the signatures on the documents at issue did not match Williams' father's signature. Allen responded with an untimely opposition in which he failed to address any of the documents produced by Williams, but instead, baldly asserted that Williams' arguments were false, briefly stated that he was a longtime friend of Williams' father, requested additional time to submit documentation establishing his interest in the property, and presented various unrelated allegations. Allen subsequently retained counsel and submitted a motion seeking a continuance of the hearing on Williams' motion so that he could file a supplemental opposition and obtain supporting evidence, which the district court granted. Allen's counsel later withdrew from the representation, and Allen failed to submit a supplemental opposition within his time for doing so, although he submitted various affidavits and other documents without supporting argument on the deadline for filing a supplemental opposition.

The district court then entered an order granting Williams' motion for summary judgment, concluding that there was no genuine dispute of material fact with respect to his claims for quiet title and slander of title. In doing so, the district court determined that "the evidence indicates that Allen obtained his interest [in the property] in a fraudulent

manner” and that “Allen [had] recorded the Fraudulent Deed even though [Williams’ father] never signed the document.” As support for its decision to grant summary judgment, the district court pointed to the opinion of Williams’ handwriting expert who opined that he had no doubt that Williams’ father did not sign the quitclaim deed—leading the court to find that, in the expert’s opinion, the “alleged signature” on the quitclaim was “fake and/or fraudulent.” The court further found that this opinion was “confirmed by the Nevada Secretary of State wherein the notary admitted that the signature was fake and fraudulent.” Lastly, the district court concluded that Allen’s failure to file a timely opposition was a separate and independent basis for its decision to grant summary judgment. This appeal followed.

On appeal, Allen challenges the order granting Williams’ motion for summary judgment by attempting to demonstrate the validity of the quitclaim deed and suggesting that the district court should have permitted him additional time to conduct discovery before entering summary judgment. As discussed above, Williams’ motion for summary judgment and the district court’s decision to grant that motion were based on, among other things, the letter from the Nevada Secretary of State’s office and the report from Williams’ handwriting expert, which demonstrated that Allen fraudulently executed the quitclaim deed. Although those documents were highly relevant to the questions of whether Allen had acquired an interest in the property and whether he slandered

title to the property by recording the fraudulent quitclaim deed, *see Chapman v. Deutsche Bank Nat'l Tr. Co.*, 129 Nev. 314, 318, 302 P.3d 1103, 1106 (2013) (providing that resolution of a quiet title claim turn on who has superiority of title); *see also DeCarnelle v. Guimont*, 101 Nev. 412, 415, 705 P.2d 650, 651 (1985) (explaining that, to prevail on a slander of title claim, the plaintiff must show that the defendant maliciously made a false statement and that the plaintiff suffered damages as a result), Allen did not acknowledge those documents during the underlying proceeding, much less present any argument addressing them.

Instead, Allen filed an untimely opposition that presented vague factual allegations and was primarily directed at seeking leave to gather additional evidence, although Allen did not submit an affidavit to support such a request. *See* NRCP 56(d) (“If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may . . . allow time to obtain affidavits or declarations or to take discovery.”). While the district court subsequently granted Allen leave to file a supplemental brief, Allen instead submitted various documents without any argument or explanation as to how they overcame the documents Williams provided.

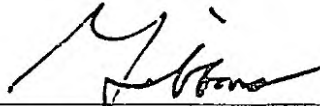
Although Allen now appears to be attempting to address these documents to a limited extent on appeal, albeit without mentioning them, by asserting that the pre-signed deed was properly notarized outside Williams’ father’s presence under NRS 240.155, Allen waived that

argument since, as detailed above, he failed to present it below. *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.”). Regardless, Allen does not offer any argument or explanation as to how the foregoing overcomes the report from Williams’ handwriting expert, who determined that the purported signature by Williams’ father on the quitclaim deed was fake or fraudulent. *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 unsupported by cogent argument).


Moreover, although the district court seemingly made an initial determination not to exercise its authority under EDCR 2.20(e) to treat Allen’s failure to file a timely opposition as “an admission that the motion . . . is meritorious and a consent to granting the same,” *King v. Cartridge*, 121 Nev. 926, 928, 124 P.3d 1161, 1162 (2005) (holding that, an opposing party’s delay in filing an opposition, standing alone, is “sufficient grounds for the district court to deem [a] motion unopposed and thus meritorious”), to the extent it continued the summary judgment hearing to allow Allen to file a supplemental opposition, the court changed its approach after Allen failed to file a supplemental opposition. Indeed, in its order granting Williams’ motion for summary judgment, the district court concluded that Allen’s failure to file a timely opposition warranted the grant of summary judgment against him, emphasizing that Allen failed to avail himself of repeated opportunities to have this case heard on the merits,

which the district court specifically indicated was a separate and independent basis for its decision. Allen's failure to address that aspect of the district court's decision on appeal, standing alone, precludes reversal of the order granting Williams' motion for summary judgment. *See Hung v. Genting Berhad*, 138 Nev., Adv. Op. 50, 513 P.3d 1285, 1287 (Ct. App. 2022) (providing that an appellant generally must challenge all the independent alternative grounds relied upon by the district court to obtain reversal). Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

¹Insofar as Allen raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

Under the circumstances presented here, and given our resolution of this matter, we decline to order the preparation of the transcripts that Allen has requested.

cc: Hon. Adriana Escobar, District Judge
Jonathan A. Allen
The Law Offices of Timothy Elson
Eighth District Court Clerk