

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,
Appellant,
vs.
C/O SMITH; RENEE BAKER;
CASEWORKER LEFLEUR; C. POTTER;
P. DELORTO; J. BORROWMAN; D.
BAZE; AND TARA CARPENTER,
Respondents.

No. 83016-COA

FILED

FEB 04 2022

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

*ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING*

Justin Odell Langford appeals from a district court order dismissing his civil rights complaint. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

In the proceedings below, Langford filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against the respondents, the respondents answered the complaint, and the parties proceeded with discovery. As relevant here, after respondents objected to some of Langford's discovery requests on the basis that the documents were privileged or did not exist, Langford filed a 22-page motion to compel discovery and a request for sanctions, primarily arguing that the respondents' "claims of privilege and confidentiality [were] asserted under unconstitutional statutes," because the Nevada Revised Statutes did not contain the enacting clause required by article 4, section 23 of the Nevada Constitution, and are therefore

invalid.¹ See Nev. Const. art. 4, § 23 (providing that the enacting clause of every law shall state “[t]he people of the State of Nevada represented in Senate and Assembly, do enact as follows”).

Respondents opposed, and filed a countermotion to dismiss, asserting, among other things, that the case should be dismissed because Langford failed to file a joint case conference report by March 29, 2021, the date the 240-day deadline under NRCP 16.1(e)(2) expired. Additionally, because Langford’s arguments in the motion to compel were not warranted by existing law, respondents asked the court to order the forfeiture of Langford’s statutory time credits under NRS 209.451. After full briefing on the motions, the district court entered an order granting the motion to dismiss and ordering the forfeiture of Langford’s statutory good time credits pursuant to NRS 209.451, finding that Langford’s motion to compel contained arguments that were not warranted under existing Nevada law. Langford now appeals.

Having considered Langford’s informal brief and the record on appeal below, we affirm the portion of the district court’s order dismissing Langford’s complaint, as Langford failed to challenge the dismissal under

¹We note that this argument is without merit as Langford conflates the laws of Nevada with the codified statutes. The Nevada Revised Statutes merely “constitute the official codified version of Statutes of Nevada and may be cited as prima facie evidence of the law.” NRS 220.170(3). The Nevada Revised Statutes consist of enacted laws which have been classified, codified, and annotated by the Legislative Counsel. See NRS 220.120. The actual laws of Nevada are contained in the Statutes of Nevada, and the full text of such laws, including any enacting language, may be found therein.

NRCPC 16.1(e)(2) on appeal. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues not raised on appeal are deemed waived); *see also Hillis v. Heineman*, 626 F.3d 1014, 1019 n.1 (9th Cir. 2010) (affirming a dismissal where the appellants failed to challenge the alternative grounds the district court provided for it).

However, we reverse the portion of the district court's order directing the forfeiture of Langford's statutory time credits and remand that portion of the order for further proceedings. Under NRS 209.451(1)(d)(2), an offender's statutory good time credits may be forfeited if the offender is found by a court to have presented a written motion to the court which "[c]ontains a claim, defense or other argument which is not warranted by existing law or by a reasonable argument for a change in existing law or a change in the interpretation of existing law." And here, the district court appropriately found that the arguments contained in Langford's motion to compel were not warranted by existing law. But "[a] forfeiture may be made *only by the Director* [of the Department of Corrections] after proof of the commission of an act prohibited pursuant to this section and notice to the offender in the manner prescribed in the regulations of the Department." NRS 209.451(3). Because the district court ordered Langford's statutory good time credits forfeited without referral to the Director of the Department of Corrections for the appropriate prison disciplinary proceeding, we conclude that the district court abused its discretion. *See Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev. 243, 249, 235 P.3d 592, 596 (2010) (reviewing the district court's decision to impose sanctions for an abuse of discretion). On remand, the district court shall revise its order to

refer Langford to the Director of the Department of Corrections, who shall determine what forfeiture of credits, if any, is warranted.

It is so ORDERED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jim C. Shirley, District Judge
Justin Odell Langford
Attorney General/Carson City
Clerk of the Court/Court Administrator Pershing County

²Although this court generally will not grant a pro se appellant relief without first providing respondents an opportunity to file a response, the filing of a response would not aid this court's resolution of this case, and thus, has not been ordered. See NRAP 46A(c); see also NRAP 34(f)(3). Moreover, insofar as Langford 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.