

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
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ISIAH TRUJILLO,

Plaintiff-Appellant,



Mark Reynolds

v.

No. A-1-CA-42020

**DENISE MADRID-BOYEA, City
of Carlsbad City Attorney, and
NADINE MIRELES, City of Carlsbad
City Clerk,**

Defendants-Appellees.

**APPEAL FROM THE DISTRICT COURT OF EDDY COUNTY
AnneMarie C. Lewis, District Court Judge**

Isiah Trujillo
Chaparral, NM

Pro Se Appellant

Long, Komer & Associates, P.A.
Nancy R. Long
Jonas M. Nahoum
Santa Fe, NM

for Appellees

MEMORANDUM OPINION

HANISEE, Judge.

{1} Plaintiff Isiah Trujillo, proceeding as a self-represented litigant, filed
Inspection of Public Records Act (IPRA) requests to various entities within the City
of Carlsbad, New Mexico, for materials related to his criminal conviction, for which

1 he is incarcerated. Plaintiff filed a complaint against Defendants Denise Madrid-
2 Boyea, the Carlsbad City Attorney and Nadine Mireles, the City of Carlsbad City
3 Clerk, based on the responses to those requests, arguing against Defendants’
4 invocation of attorney-client privilege as an exception to production of certain
5 documents under IPRA, among other things. Defendants moved for summary
6 judgment, asserting they had complied with IPRA and correctly invoked the
7 privilege. The district court granted Defendants’ motion for summary judgment, and
8 Plaintiff appealed. We affirm.

9 **BACKGROUND**

10 {2} In the complaint, Plaintiff explained his dissatisfaction with the city’s and its
11 police department’s responses to Plaintiff’s IPRA requests, asserting his need for the
12 requested items and the inapplicability of Defendants’ claimed “attorney-client
13 privileged information” exception under IPRA. *See* NMSA 1978, Section 14-2-1(G)
14 (2023, amended 2025). Plaintiff cited instead Rule 11-503(D) NMRA, which
15 provides an exception to attorney-client privilege when the privilege is invoked to
16 cover up a crime. Plaintiff asserted in his complaint that several items were withheld,
17 particularly items that were crucial to proving the illegality of his criminal conviction
18 and that were within the realm of *Brady* material, to which Defendants had a duty to
19 disclose per Plaintiff’s rights as a defendant in his criminal case. *See Brady v.*
20 *Maryland*, 373 U.S. 83 (1963). Among the items Plaintiff sought and did not receive

1 was an assertedly exculpatory email Plaintiff sent to a certain email address,
2 intending to reach a Carlsbad detective.

3 {3} Defendants filed a motion for summary judgment arguing that they had
4 complied with IPRA and correctly asserted attorney-client privilege as to the
5 attorney work product portion of Plaintiff's request. Defendants asserted that the
6 information Plaintiff sought in his IPRA request—"the entire work product [from]
7 the Hinkle Law Firm" related to the City of Carlsbad's defense of another of
8 Plaintiff's civil cases—was exempt from disclosure as privileged and confidential
9 pursuant to attorney-client privilege, as well as to the work product immunity
10 doctrine, and was thus appropriately withheld despite Plaintiff's IPRA request.
11 Plaintiff filed a reply, arguing that Defendants violated his rights by withholding the
12 aforementioned email (thus committing a crime), and therefore could not invoke the
13 privilege and was not excepted from IPRA. Plaintiff then discussed his request for
14 records of prison phone calls between himself and the Hinkle Law Firm attorneys,
15 who represented the Carlsbad Police Department "on several occasions," which
16 Defendants denied were in their possession After the hearing, the district court found
17 in favor of Defendants, reasoning that Plaintiff did not meet his burden on summary
18 judgment to provide evidence of disputes of fact and thereby refute Defendants'
19 prima facie showing that they complied with IPRA. Crucial to this appeal, the district
20 court found that the email Plaintiff sought was not discoverable through IPRA

1 because it was not and had never been in Defendants’ possession; Plaintiff had sent
2 it to the wrong email address.

3 {4} Plaintiff then filed his notice of appeal and docketing statement, which raised
4 seven issues related to the hearing on Defendants’ motion for summary judgment
5 but nonetheless unrelated to the propriety of summary judgment as set forth in our
6 jurisprudence. This Court then inadvertently filed a notice of proposed summary
7 disposition, suggesting the case would be decided on the summary calendar. Plaintiff
8 timely responded to our notice with a memorandum in opposition addressing those
9 same seven issues. Afterward, this Court filed a general calendar notice, independent
10 of Plaintiff’s memorandum in opposition, instructing the parties to brief, “[i]n
11 addition to other matters the parties may wish to address,” whether (1) Defendants
12 as appellees “made a prima facie showing to support summary judgment such that
13 the burden shifted to (Plaintiff as appellant) to demonstrate the existence of specific
14 evidentiary facts that would justify trial on the merits; and (2) summary judgment
15 was justified under the circumstances.” *See Romero v. Phillip Morris Inc.*, 2010-
16 NMSC-035, ¶ 10, 148 N.M. 713, 242 P.3d 280.

17 **DISCUSSION**

18 {5} “Although pro se pleadings are viewed with tolerance, a pro se litigant is held
19 to the same standard of conduct and compliance with court rules, procedures, and
20 orders as are members of the bar.” *Camino Real Env’t Ctr., Inc. v. N.M. Dep’t of*

1 *Env't (In re Camino Real Env't Ctr., Inc.)*, 2010-NMCA-057, ¶ 21, 148 N.M. 776,
2 242 P.3d 343 (omission, internal quotation marks, and citation omitted). One of
3 those court rules, procedures, and orders that pro se litigants must follow is the
4 appellate rule that an appellant must brief all the issues that they wish this Court to
5 review in their brief in chief. *See State v. Cearley*, 2004-NMCA-079, ¶ 7, 135 N.M.
6 710, 92 P.3d 1284 (“Once a case is assigned to the general calendar, the appellant
7 must brief all the issues that [they] wish[] th[is C]ourt to review.”). The docketing
8 statement does not provide a basis for review of an issue once a case is placed on the
9 general calendar for briefing, and issues listed in the docketing statement that are not
10 briefed are deemed abandoned. *Id.* “[A]ttempts to incorporate by reference
11 arguments and authority contained in memoranda submitted in opposition to
12 calendaring notices do not preserve matters not specifically argued in the briefs.”
13 *Martinez v. Sw. Landfills, Inc.*, 1993-NMCA-020, ¶ 16, 115 N.M. 181, 848 P.2d
14 1108.

15 {6} At the outset of Plaintiff’s argument, he attests that his “argument in this case
16 [has] been made on every pleading [he has] ever filed.” But we cannot supplement
17 Plaintiff’s brief in chief on appeal with arguments made elsewhere. *See United*
18 *Nuclear Corp. v. State ex rel. Martinez*, 1994-NMCA-031, ¶ 5, 117 N.M. 232, 870
19 P.2d 1390 (recognizing that referring to and incorporating previously filed pleadings
20 and briefs “is an unacceptable briefing practice,” and declining to “reexamine these

1 other pleadings in this appeal”). Instead, the narrow scope of this opinion is based
2 on the limited arguments made by Plaintiff in his brief in chief. *See State v.*
3 *Lucero*, 2007-NMCA-127, ¶ 12, 142 N.M. 620, 168 P.3d 750 (“[The d]efendant’s
4 arguments on appeal frame our analysis.”).

5 {7} On appeal, Plaintiff does not refute Defendants’ prima facie showing;
6 Plaintiff’s brief in chief does not explain how Defendants’ motion for summary
7 judgment failed to show that Defendants complied with IPRA or correctly invoked
8 attorney-client, or any other privilege. In fact, Plaintiff forsakes a challenge to
9 Defendants’ prima facie showing when, on the first page of Plaintiff’s brief in chief,
10 he states, “I do not dispute” the statements of undisputed material facts in
11 Defendants’ motion for summary judgment.

12 {8} Instead, Plaintiff’s brief in chief explains the core issues of his criminal
13 conviction and of the accompanying civil cases through which Plaintiff
14 unsuccessfully sought reprieve. But the focus of this IPRA litigation is to determine
15 whether Defendants complied with IPRA, not whether a detective illegally
16 interrogated Plaintiff; whether the district attorney’s office that handled Plaintiff’s
17 criminal case violated its duties to investigate his claims and provide Plaintiff with
18 exculpatory evidence; or whether the district court acted in bad faith by dismissing
19 Plaintiff’s civil cases. *See Chapel v. Nevitt*, 2009-NMCA-017, ¶ 53, 145 N.M. 674,
20 203 P.3d 889 (explaining that an appellant may not raise issues in an appeal that

1 were not raised by the pleadings in district court and not resolved by the orders for
2 which appellate review is sought). While we understand that these core issues are
3 the basis for Plaintiff's other cases and motivated Plaintiff to make IPRA requests
4 in the first place, they are not the focus of this case, and we cannot address them in
5 this appeal.

6 {9} In addition to Plaintiff's brief in chief containing arguments that are beyond
7 the scope of this appeal, the brief in chief likewise needed to comply with the general
8 calendar notice's direction to provide specific evidentiary facts to refute Defendants'
9 prima facie case. Plaintiff's most crucial evidence—the evidence that “is the one
10 piece that this house of cards is built on”—is Plaintiff's email to a detective, which
11 Plaintiff contends contains exculpatory information. Plaintiff sought this email
12 through IPRA and raised the issue that he did not receive it on appeal. To succeed
13 on appeal, Plaintiff needed to show specific evidentiary facts that the email existed,
14 and that Defendants failed to comply with IPRA in not producing it. Therefore, we
15 turn our focus to whether Plaintiff presented specific evidentiary facts that would
16 show a dispute of fact regarding the email.

17 {10} While Plaintiff argues in his brief in chief that he is deserving of the email and
18 that it should have been provided to him, Plaintiff does not offer specific evidentiary
19 facts that Defendants ever received or could produce it in the first place. Where a
20 party fails to cite any portion of the record to support its factual allegations, this

1 Court need not consider its argument on appeal. *See Santa Fe Expl. Co. v. Oil*
2 *Conservation Comm’n*, 1992-NMSC-044, ¶ 11, 114 N.M. 103, 835 P.2d 819.
3 Furthermore, Plaintiff accepts that he sent the email to a certain address that omitted
4 “nm.” The record, including Plaintiff’s own exhibits and attachments, makes clear
5 that this email address was incorrect. Based on the briefing, the best this Court can
6 tell is that Plaintiff continues to seek an email that he himself sent and that the district
7 court determined and Plaintiff agreed was sent to an erroneous email address.

8 {11} Furthermore, at all levels of these proceedings Plaintiff was given the
9 opportunity—and specifically instructed—to rebut Defendants’ motion for summary
10 judgment, yet Plaintiff never did. Plaintiff does not address what this Court
11 instructed in our general calendar notice be included in his brief in chief; nor does
12 Plaintiff raise in his brief those issues listed in his docketing statement. To reiterate,
13 Plaintiff instead asserts a litany of complaints about matters adjacent but ultimately
14 unrelated to his IPRA claim. Therefore, we cannot extend to Plaintiff opportunities
15 in the law that do not exist to represented litigants, particularly when Plaintiff has
16 been told by multiple courts those arguments that must be developed in order to
17 achieve denial of Defendants’ motion for summary judgment in the first instance, or
18 reversal of that judgment now. *See Camino Real Env’t Ctr., Inc.*, 2010-NMCA-057,
19 ¶ 21. At no time did Plaintiff do so. Those opportunities have now passed.

1 {12} Because Plaintiff did not provide specific evidentiary facts to refute
2 Defendants' prima facie showing, we must affirm the district court. *See id.* We note
3 that our affirmance resolves only those issues raised in Plaintiff's brief in chief,
4 which fails to identify specific evidentiary facts refuting Defendants' prima facie
5 case in this IPRA matter, and not on the merits of unrelated findings of fact and
6 conclusions of law made by the district court.

7 **CONCLUSION**

8 {13} We affirm.

9 {14} **IT IS SO ORDERED.**

10 
11 **J. MILES HANISEE, Judge**

12 **WE CONCUR:**

13 
14 **ZACHARY A. IVES, Judge**

15 
16 **GERALD E. BACA, Judge**