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Summary of Jones v. Eighth Jud. Dist. Ct., 130 Nev. Adv. Op. 53

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Recommended Citation

Gloekner, Kylee, "Summary of Jones v. Eighth Jud. Dist. Ct., 130 Nev. Adv. Op. 53" (2014). *Nevada Supreme Court Summaries*. 795.

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CONSTITUTIONAL LAW: RIGHT TO ACCESS THE COURT

Summary

The Court determined (1) whether a criminal defendant's access to the courts can be restricted by the district court when he or she is challenging a judgment of conviction and sentence or the computation of time served under a judgment of conviction; and (2) whether there is an established approach courts should take when restricting the access.

Disposition

District courts have the authority to restrict a litigant's right to access the court. However, courts must balance competing interests by following the four-step analysis set forth in *Jordan* when determining whether to permanently restrict a litigant's right to access the court.

Factual and Procedural History

Darryl Jones was convicted for several crimes and sentenced to a total of approximately 51 to 134 years in prison. On appeal, the district court reversed the judgment on some counts and affirmed the remaining counts. Subsequently, Jones, representing himself, filed a timely post-conviction petition for a writ of habeas corpus challenging his judgment of conviction and sentence. Jones also filed amendments to his petition, a motion for the production of documents, and a motion to extend his prison copy limit. The State then filed a consolidated opposition and a request for vexatious litigant determination. The district court referred Jones to the chief judge for an official determination, and, later, a cursory order was entered denying all of Jones's motions and determining that he was a vexatious litigant. The order restricted Jones's ability to file further documents in the district court and stated "that all future filings by defendant in this matter are referred to the chief judge for review and approval before they may come before this Department." The order also stated that Jones's filings were not made in good faith and were filed for the sole purpose of harassing the State and district court. At the hearing, Jones was not represented by counsel, nor was he present; he later filed a petition for a writ of mandamus to challenge the district court's order.

Discussion

Under Nevada law, courts can permanently restrict a litigant's right to access the courts by using approved procedures to help determine whether to restrict a litigant's access to the courts and to narrowly tailor the restrictive order.² However, courts may not impose a complete ban on filings by an indigent proper person litigant if the ban prevents the litigant from

¹ By Kylee Gloeckner.

² *Jordan v. State ex rel. Dep't of Motor Vehicles & Public Safety*, 121 Nev. 44, 59-62, 110 P.3d 30, 41-44 (2005).

proceeding in original civil actions and criminal cases that sufficiently implicate a fundamental right.³

Furthermore, other jurisdictions have concluded that courts may issue restrictive orders to curb repetitive or abusive activities by litigants who are challenging a judgment of conviction and that such restrictions are necessary and prudent to curb conduct that would impair court functions and the rights of other litigants. In order to preserve judicial resources and curb vexatious behavior, this Court concludes, “that the district courts have inherent authority to issue orders that restrict a litigant’s filings that challenge a judgment of conviction and sentence if the court determines that the litigant is vexatious.” Because the right to access courts is an important constitutional concern, courts must carefully balance competing interests to determine if the restrictive order would limit a litigant’s access to the courts in order to challenge a judgment of conviction and sentence.

In order to balance the competing interests, district courts should use the following four-step analysis as stated in *Jordan*: (1) a litigant must be provided reasonable notice of and an opportunity to oppose a restrictive order’s issuance; (2) the court must create an adequate record for review, including a list of the petitions or motions, or an explanation of the reasons that led to the restrictive order and consider whether there are other standard remedies available and adequate to curb the abusive litigation; (3) the court must make substantive findings that the litigant’s actions are frivolous or harassing in nature; and (4) “the order must be narrowly drawn to address the specific problems encountered and must set an appropriate standard by which any future filings will be measured.”

Here, the district court failed to provide Jones with reasonable notice of, and an opportunity to oppose, the restrictive order’s issuance; thus, Jones’s due process rights were violated. Additionally, the court failed to create an adequate record for review or provide reasons for its conclusion that a restrictive order was necessary. Finally, the court failed to make substantive findings as to the frivolous or harassing nature of Jones’s actions, and the restrictive order was not narrowly drawn to address the problem encountered.

Conclusion

The district court did not follow the four-step analysis set forth in *Jordan* when determining whether to permanently restrict Jones’s right to access the court. Thus, because the restrictive order runs afoul of the applicable guidelines, the Court concluded “that the district court acted arbitrarily and capriciously in designating Jones a vexatious litigant and entering the restrictive order.” Therefore, this Court grants the petition.

³ *Id.* at 62, 110 P.3d at 43.