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State v. Second Jud. Dist. Ct. (Ayden A.), 132 Nev. Adv. Op. 33 (April 28, 2016)

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FAMILY LAW-CIVIL PROCEDURE

Summary

NRS 432B.6075 governs emergency admission of children with emotional disturbances to facilities for their protection, and requires a petition for continuance of admission after an emergency admission within five days of the involuntary placement.² Based on N.R.C.P. 6(a), which governs the computing of time for judicial purposes, the Court held that the five day limitation on filing a petition was based on judicial, not calendar, days. The Court granted the State's petition for a writ of mandamus, directing the district court to vacate its order denying the State's NRS 432B petition.

Background

Ayden A., a minor, was admitted to West Hills Hospital because he was deemed to be emotionally disturbed. Exactly one week later, the State filed a petition, pursuant to NRS Chapter 432B, to extend emergency admission. The next day, at a hearing on the petition, the State argued that the five day statutory limit meant business days; Ayden argued that the petition was untimely because the statutory limit meant calendar days. The district court ruled in favor of Ayden. Ayden was subsequently released.

Discussion

This case presents an issue that is capable of repetition yet evading review

The State argued that the Court should hear its case, because although the instant matter was moot, the underlying issue of law needed clarification. The Court noted that a moot issue may be considered on appeal if the issue met the following factors: "(1) the duration of the challenged action is relatively short, (2) there is a likelihood that a similar issue will arise in the future, and (3) the matter is important."³ The Court held that the current issue fell within the exception because of the necessarily temporary time frame of the involuntary admissions; the likelihood that the State, if not Ayden, would need to rely on a correct interpretation of the statutory time limit; and because the interpretation of the time limit could affect individual liberty, it was deemed important.

"5 days" in NRS 432B.0675 are necessarily judicial days

The Court noted that the text of the statute did not indicate a computation method for the time limit, and thus declared the case a matter of statutory interpretation. As the computation method for time limits in Nevada is laid out in NRCP 6(a), the Court agreed that it would apply to NRS 432B. "NRCP 6(a), by its own terms, applies to the computation of any period of time prescribed or allowed by the NRCP, local rules of the district court, by an order of the court, or

¹ By Audra Powell

² NEV. REV. STAT. § 432B.6075.

³ *Bisch v. Las Vegas Metro. Police Dep't*, 129 Nev. Adv. Op. 36, 302 P.3d 1108, 1113 (2013).

by any applicable statute.”⁴ The Court noted that there are exceptions under which NRCP 6(a) would not apply, but only if the statute specifically conflicts with NRCP 6(a).⁵ The Court noted that it had considered legislative intent, which it admitted “might support Ayden's position that the Legislature intended the five-day cap to refer to calendar days” but concluded that NRCP 6(a) should apply.

Conclusion

Because the district court applied the improper calculation of time to the State’s NRS 432B petition, and thus denied it as untimely, the Court granted the State’s petition for a writ of mandamus and ordered the district court to vacate its order.

⁴ *Morrow v. Eighth Jud. Dist. Ct.*, 129 Nev. Adv. Op. 10, 294 P.3d 411, 415 (2013).

⁵ *See Joanna T. v. Eighth Jud. Dist. Ct.*, 131 Nev. Adv. Op. 77, 357 P.3d 932 (2015).