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### Summary of Stilwell v. City of North Las Vegas and City of Boulder City, 129 Nev. Adv. Op. 76

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*Nevada Law Journal*

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*Stilwell v. City of North Las Vegas and City of Boulder City*, 129 Nev. Adv. Op. 76 (Oct. 31, 2013)<sup>1</sup>

## CRIMINAL PROCEDURE: APPELLATE JURISDICTION

### **Summary**

The Court determined two issues: (1) whether the district court's appellate jurisdiction is final for cases that originate in the municipal courts; and (2) whether NRS 176.115 creates an additional right of appeal for a defendant who has already been given an opportunity to appeal and who has been unsuccessful.

### **Disposition**

For cases that originate in the municipal courts, the district court's appellate jurisdiction is final. Furthermore, NRS 176.115 does not create an additional right of appeal for a defendant who has unsuccessfully sought cost and has already had a right of appeal.

### **Factual and Procedural History**

Appellant David Stilwell received two tickets for riding a motorcycle without proper headgear. He was convicted twice in nonrecord municipal courts and received misdemeanors for violating NRS 486.231. Stilwell appealed to the district court and the prosecution dismissed his convictions with prejudice. Stilwell was also refunded the fines and costs he paid to post bail and appeal his convictions. Subsequently, Stilwell requested that the district court award him attorney fees and court costs pursuant to NRS 176.115; the district court denied Stilwell's motion for fees, and Stilwell appealed.

### **Discussion**

Nevada's Constitution provides that district courts "have final appellate jurisdiction in cases arising in . . . inferior tribunals as may be established by law."<sup>2</sup> In addition, Nevada case law has repeatedly held that "district courts have final appellate jurisdiction in cases arising in municipal courts," and, once the district court has decided an appeal from a municipal court conviction, the conviction "is not subject to further review by appeal to this court."<sup>3</sup> The Court concluded that since "Stilwell's cases originated in the municipal courts and were heard by the district court on appeal," the "district court's appellate jurisdiction is final, and this court therefore lacks jurisdiction to hear them."

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<sup>1</sup> By Kylee Gloeckner.

<sup>2</sup> NEV. CONST. art. 6, § 6.

<sup>3</sup> *Tripp v. City of Sparks*, 92 Nev. 362, 363, 550 P.2d 419, 419 (1976); *see Waugh v. Casazza*, 85 Nev. 520, 521, 458 P.2d 359, 359-60 (1960).

Furthermore, “as written, NRS 176.115 does not create an additional right of appeal in favor of a defendant who unsuccessfully seeks costs and has already been afforded a right to appeal.”<sup>4</sup>

### **Conclusion**

Since Stilwell’s cases originated in the municipal courts, the district court’s appellate jurisdiction is final and the Supreme Court of Nevada does not have jurisdiction to hear the case. Furthermore, Stilwell has already been afforded a right of appeal and NRS 176.115 does not create an additional right of appeal.

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<sup>4</sup> See *Blackburn v. State*, 129, Nev. \_\_\_\_, \_\_\_\_, 294 P.3d 422, 425 (2013).