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Summary of Gonzalez v. Dist. Ct., 129 Nev. Adv. Op. 22

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Issue Preclusion – Final Judgments, Hung Juries

Summary

This is an original writ of mandamus challenging the ruling of the Eight Judicial District Court of Nevada denying the motion to dismiss of the petitioner, Leopoldo Gonzalez. Gonzalez’s motion sought to dismiss criminal information under the Double Jeopardy Clause and collateral estoppel rule.

Disposition/Outcome

The Court granted Gonzalez’s writ of mandamus. The Court ordered the district court to vacate its order denying petitioner’s motion to dismiss and to reconsider based on the controlling legal authority set forth in their opinion.

Facts and Procedural History

Gonzalez was charged with sexual assault of a minor under the age of 14 and lewdness with a child under the age of 14. Both offenses were based on the same event. The jury acquitted Gonzalez of the lewdness count and deadlocked on the sexual assault count. The court declared a mistrial and set a new trial date.

Gonzalez moved to dismiss the information under the Double Jeopardy Clause and collateral estoppel rule due to the fact that he was acquitted of lewdness and both offenses were based on the same event. The State opposed, and the district court denied the motion based on the jury’s inability to reach a verdict on the sexual assault count.

Discussion

Justice Hardesty wrote the unanimous opinion of the court, sitting in a three-justice panel with Justice Parraguirre and Justice Cherry.

The analysis of collateral estoppel, now commonly referred to as “issue preclusion” by the United States Supreme Court,² relies primarily on two key cases for guidance. First, to determine whether an issue of ultimate fact was decided by the jury during the first trial, the court must “examine the record of [the] prior proceeding, taking into account the pleadings, evidence, charge, and other relevant matter, and conclude whether a rational jury could have grounded its verdict upon an issue other than that which the defendant seeks to foreclose from

¹ By Michael Esposito

² See *Taylor v. Sturgell*, 553 U.S. 880, 892 n.5 (2008).

consideration.”³ Second, a jury’s inability to reach a verdict is a “nonevent,” and “consideration of [the] hung counts has no place in the issue preclusion analysis.”⁴

The Court noted that while the district court’s order denying Gonzalez’s motion to dismiss did not contain any findings of fact or conclusions of law, the transcript of the hearing clearly indicated that the court relied on the fact that the jury deadlocked to reach its decision.

Conclusion

The Court held that the District Court erroneously relied on the jury’s inability to reach a verdict to determine the issue of collateral estoppel. Under current mandatory authority the inability to reach a verdict is a “nonevent” and has no place in the analysis of issue preclusion.⁵

³ Ashe v. Swenson, 397 U.S. 436, 444 (1970).

⁴ Yeager v United States, 557 U.S. 110, 120-22 (2009).

⁵ Id. at 120-122.