

Scholarly Commons @ UNLV Boyd Law

Nevada Supreme Court Summaries

Law Journals

6-1-2006

Summary of Stockmeier v. Psychological Review Panel, 122 Nev. Adv. Op. No. 50

Gregory A. Hubbard
Nevada Law Journal

Follow this and additional works at: <https://scholars.law.unlv.edu/nvscs>



Part of the [Criminal Law Commons](#), and the [Criminal Procedure Commons](#)

Recommended Citation

Hubbard, Gregory A., "Summary of Stockmeier v. Psychological Review Panel, 122 Nev. Adv. Op. No. 50" (2006). *Nevada Supreme Court Summaries*. 530.

<https://scholars.law.unlv.edu/nvscs/530>

This Case Summary is brought to you by the Scholarly Commons @ UNLV Boyd Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact youngwoo.ban@unlv.edu.

Stockmeier v. Psychological Review Panel,
122 Nev. Adv. Op. No. 50 (June 1, 2006)¹

CRIMINAL PROCEDURE

Summary

The Psychological Review Panel (“Psych Panel”) held a hearing to consider whether a prisoner serving consecutive sentences for sex offenses was a threat to society if he were released on parole. The Psych Panel decided not to certify the prisoner for release, partially based on new allegations made by the victim during the hearing. The prisoner filed a district court petition for a writ of mandamus, prohibition, or habeas corpus, challenging the Psych Panel’s actions. The district court denied and dismissed the petition. The Nevada Supreme Court held that the district court abused its discretion in denying and dismissing the mandamus petition under NRS 213.1214(4). The Court found that though that statute prohibits a prisoner from challenging the Psych Panel’s refusal to certify a prisoner, and prohibits a prisoner from challenging the Psych Panel’s refusal to consider a prisoner for certification, the statute does not prohibit a prisoner from challenging the process used by the Psych Panel during the hearing, or from challenging the validity of the statute. Though the Court found the Psych Panel’s process was proper, it found that the statute’s requirement of certification was not valid when applied to a prisoner serving consecutive prison sentences.

Disposition/Outcome

The Nevada Supreme Court had previously issued an opinion affirming the district court’s decision. However, the Supreme Court granted appellant Stockmeier’s petition for rehearing. The Court then reversed in part the district court’s order denying and dismissing the petition, affirmed in part the district court’s denial of petitioner’s prohibition and habeas corpus petitions, and remanded to the district court to grant petitioner’s mandamus petition.

Factual & Procedural History

Stockmeier is serving the first of two consecutive prison sentences as a sex offender. Since he is a sex offender, Stockmeier must receive certification from the Psych Panel in order to ensure that he is no longer a threat to society before he can be released on parole. Stockmeier attended a Psych Panel hearing in December 2002 in anticipation of being released on parole from his first prison sentence. At that hearing, Stockmeier’s victim testified. The victim raised new allegations against Stockmeier that were not adjudicated previously. At the hearing, Stockmeier admitted to the crimes for which he was convicted, but denied the victim’s new allegations. The Psych Panel decided not to certify Stockmeier for release on parole, partially based on his refusal to admit to the victim’s new allegations.

Stockmeier then filed in the district court 1) a petition for a writ of mandamus and prohibition or, alternatively, 2) a petition for a writ of habeas corpus. The petition challenged the Psych Panel’s actions on statutory and constitutional grounds.

¹ By Gregory A. Hubbard

The district court denied and dismissed the petition determining that NRS 213.1214 prohibits a prisoner from challenging Psych Panel's actions. Stockmeier then appealed the district court's decision to the Nevada Supreme Court.

Discussion

1. Statutory Prohibition of Litigation

NRS 213.1214(4) prohibits a prisoner from bringing a cause of action against the Psych Panel for failure to certify a prisoner.² The statute also prohibits a prisoner from bringing a cause of action against the Psych Panel for refusing to consider a prisoner for certification.³ However, the statute does not prohibit a prisoner from bringing a cause of action regarding the process of conducting the hearing or the statute's validity.⁴ Here, Stockmeier was not asserting a cause of action for the Psych Panel's failure to certify himself or for the Psych Panel's failure to consider himself for certification. Instead, Stockmeier was asserting a cause of action for contesting the process used by the Psych Panel during the hearing and the validity of the statute. Therefore, Stockmeier's writ of petition was not prohibited by the statute.

2. Process Used By Psych Panel at the Hearing

NRS 213.1214 requires the Psych Panel to ensure that prisoners who are sex offenders are no longer threats to society before they are released on parole. In order to ensure that prisoners are no longer threats to society, it may be necessary for the Psych Panel to consider information beyond the information proven for the conviction. Although the Psych Panel cannot use additional information to extend the prisoner's conviction, it may consider the information when determining whether or not to certify the prisoner. Therefore the Psych Panel did not exceed its authority when it considered the victim's new allegations against Stockmeier in its determination not to certify Stockmeier.

3. Validity of Statute As to Prisoner Serving Consecutive Sentences

The language of NRS 213.1214 creates an ambiguity when a prisoner is serving consecutive sentences. The statute provides, in pertinent part, that "the Board shall not release on parole a prisoner convicted of [sex offenses] unless a panel" certifies the prisoner.⁵ The word "release" can be construed to mean "paroled from one's sentence" or to mean "freed from incarceration." If the former construction is adopted, then the statute requires Psych Panel certification for a prisoner at the completion of the first of consecutive sentences. If the latter construction is adopted, then the statute does not require Psych Panel certification for a prisoner at the completion of the first of consecutive sentences.

Since the statute is ambiguous, the Court must consider the statute's legislative history. Upon examining the statute's legislative history, the Court determined that the Legislature

² NEV. REV. STAT. § 213.1214(4) provides:

This section does not create a right in any prisoner to be certified or to continue to be certified. No prisoner may bring a cause of action against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for not certifying a prisoner pursuant to this section or for refusing to place a prisoner before a panel for certification pursuant to this section.

³ *Id.*

⁴ *See id.*

⁵ NEV. REV. STAT. § 213.1214(1) (2003).

intended to require a Psych Panel certification only for prisoners who were being released back into society, not for prisoners who were being “released” into the next of consecutive prison sentences.⁶

Here, Stockmeier is not a prisoner who is being released back into society, but is a prisoner who is being released into the next of consecutive prison sentences. Therefore, the statute does not require certification of Stockmeier for him to be released on parole.

Conclusion

NRS 213.1214(4) does not prohibit Stockmeier’s claims because Stockmeier is alleging his rights were violated by the process used by the Psych Panel at the hearing and the validity of the statute. The statute would only prohibit Stockmeier from challenging the Psych Panel’s decision not to certify him, or the Psych Panel’s decision not to consider him from certification.

The process used by the Psych Panel at the hearing did not violate Stockmeier’s rights since the Psych Panel is permitted to consider allegations beyond the conviction in its efforts to ensure that Stockmeier is not a threat to society.

However, the statute’s requirement of certification is not valid in this situation since Stockmeier is not being released back into society, but is merely being released from one prison sentence into a consecutive prison sentence.

Since the Court determined that Stockmeier should not have received a Psych Panel hearing in the first place, thus making his writ for a petition of mandamus appropriate, the Court determined that his constitutional claims should be rendered moot. Accordingly, the Court reversed the district court’s order denying and dismissing the petition, affirmed in part the district court’s denial of Stockmeier’s prohibition and habeas corpus petitions, and remanded the case to the district court in order to grant Stockmeier’s mandamus petition.

⁶ The Court explains that in 1997 the Legislature replaced NRS 200.375, which provided for Psych Panel certification for any parole, with NRS 213.1214, which originated out of concern for protecting the community from sex offenders. See 1997 Nev. Stat., ch. 524, §10, at 2506; Legislative Counsel Bureau, *Treatment of Mentally Ill Offenders*, Bulletin No. 97-7, 69th Leg. (Nev., 1997).