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Stockmeier v. Nevada Department of Corrections Psychological Review Panel,
124 Nev. Adv. Op. No. 30 (May 15, 2008)¹

**GOVERNMENT AND PUBLIC AFFAIRS – NEVADA OPEN MEETING
LAW**

Summary

Stockmeier appeals the district court's order dismissing his claim for damages against the Department of Corrections for violating the Nevada Open Meeting Law.

Disposition/Outcome

The district court's dismissal of Stockmeier's claim is affirmed. The court concludes that Open Meeting Law violations (NRS 241.037) can only be remedied through declaratory and injunctive relief. A party is not entitled to damages for Open Meeting Law violations. Therefore, Stockmeier failed to state a viable claim for damages and was properly dismissed.

Factual and Procedural History

Stockmeier is a sex offender serving two consecutive life sentences. In December, 2002, Stockmeier appeared before the Psych Panel for certification that he was not a high risk to re-offend. The Panel denied him certification, eliminating his ability to obtain parole after he served his first life sentence. Stockmeier then filed suit against the Panel, arguing it violated the Nevada Open Meeting Law and sought declaratory and injunctive relief.

The district court dismissed Stockmeier's complaint, finding the Panel proceeding to be quasi-judicial and therefore not subject to the Nevada Open Meeting Law. Stockmeier appealed and the Nevada Supreme Court reversed and remanded the case for trial on the issue of whether the Panel had indeed violated the Open Meeting Law. Stockmeier then amended his complaint to include a claim for damages under NRS Chapter 41(2).

Before the district court could hear the case on remand, the Nevada Supreme Court issued *Stockmeier II*, which rendered all of Stockmeier's Open Meeting violations moot.² In light of this decision, the Psych Panel moved to dismiss for failure to state a claim. The district court dismissed the case and Stockmeier appealed.

Discussion

Stockmeier argued that his case should not have been dismissed because even though his claims for declaratory and injunctive relief were moot, his claim for money damages still remained judiciable. However, the Open Meeting Law, NRS 241.037(2) only authorizes a person to seek injunctive and declaratory relief. The Court finds that the plain language of the statute expressly provides only for the specific remedies of injunctive and declaratory relief. Thus, the

¹ By Holly Ludwig

² *Stockmeier v. Psychological Review Panel*, 122 Nev. 534, 135 P.3d 807 (2006).

Court infers that the legislature did not intend to provide for any other remedies beyond those specified.³

Stockmeier further argued damages were appropriate for violations of the Open Meeting Law pursuant to NRS 41.130. NRS 41.130 is a general statute, which is in conflict with the NRS 241.037(2), a specific statute. Thus, the Court finds the specific statute takes precedence over the general statute.⁴

Conclusion

NRS 241.037(2) specifically limits remedies for Open Meeting Law violations to injunctive and declaratory relief. Damages are not available for Open Meeting Law violations under the general provisions of NRS 41.130. Therefore, the district court did not err in dismissing Stockmeier's amended complaint for damages for failure to state a claim, and the district court's order is affirmed.

³ See *Builders Ass'n v. City of Reno*, 105 Nev. 368, 370, 776 P.2d 1234, 1235 (1989); see also *Northwest Airlines, Inc. v. Transport Workers*, 451 U.S. 77, 94 (1981).

⁴ *Lader v. Warden*, 121 Nev. 682, 687, 120 P.3d 1164, 1167 (2005).