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Jarrold Rickard
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Sandstrom v. Second Judicial District Court of Nevada, 121 Nev. Adv. Op. 65 (September 22, 2005)¹

CRIMINAL LAW – APPEALS BY STATE FROM JUSTICE COURT ORDER

Summary

Original petition for a writ of certiorari or in the alternative a writ of mandamus challenging the district court's order reversing and remanding a justice court order granting petitioner's motion to dismiss a misdemeanor criminal complaint.

Disposition/Outcome

Petition denied. The Nevada Supreme Court held that the district courts have jurisdiction under NRS 177.015 to review on appeal orders of the justice courts granting motions to dismiss misdemeanor criminal complaints.

Factual and Procedural History

The petitioner, Wayne Sandstrom, was charged with several misdemeanor county code violations. These violations included operating a business without a license, storing a commercial vehicle in a residential area, and outdoor storage and/or display of an inoperable vehicle.

Sandstrom responded to these charges by filing a motion to dismiss the complaint. The justice court granted this motion, and the State unsuccessfully sought reconsideration of the justice court order. The State then appealed the justice court's order to the district court. The district court reversed the justice court order and remanded the matter for further proceedings. After unsuccessfully pursuing reconsideration of the district court's order, Sandstrom filed a motion to strike the order on the ground that the district court lacked jurisdiction to entertain the State's appeal.

The district court denied Sandstrom's motion to strike, concluding that it had jurisdiction to entertain the State's appeal pursuant to NRS 177.015. Sandstrom then filed the petition at issue.

Discussion

Sandstrom's argued that the district court lacked jurisdiction to consider the State's appeal because no statutory authority allowed for it.

A. The Nevada Constitution

The Nevada Supreme Court began by point out that the Nevada Constitution bestows on the Legislature the authority to "prescribe by law the manner, and determine the cases in which appeals may be taken from Justices and other courts."² More

¹ By Jarrod Rickard

² NEV. CONST. art. VI, § 8.

specifically, district courts are granted exclusive “final appellate jurisdiction in cases arising in Justice Courts and such other inferior tribunals as may be established by law.”³

B. NRS 177.015

In accord with the constitutional mandate, the Nevada Legislature enacted NRS 177.015. NRS 177.015 provides in pertinent part:

The party aggrieved in a criminal action may appeal only as follows:

1. Whether that party is the State or the defendant:
 - (a) To the district court of the county from a final judgment of the justice court.

The Nevada Supreme Court examined the plain language of NRS 177.015(a) and found that it clearly vests the district court with final appellate jurisdiction over a final judgment of the justice court, regardless of whether the party appealing is the State or the defendant.⁴

C. Remaining Arguments

Sandstrom offered several more arguments challenging the district court’s jurisdiction to consider the State’s appeal.

i. No Conviction

Sandstrom first argued that NRS 177.015 only applies when there has been a conviction and his case was dismissed by the justice court.

The Nevada Supreme Court again examined the plain language of the statute and found that it permits an appeal from “a final judgment” and does not specifically require a judgment of conviction.

ii. Right to Appeal is Statutory

Sandstrom’s second argument was that NRS 177.015 is contrary to a number of the Nevada Supreme Court’s previous decisions holding that the right to appeal is statutory and no right to appeal exists where no statute or court rule provides for one.⁵

The Nevada Supreme Court found that NRS 177.015(1)(a) does indeed authorize the State to appeal from an order granting a motion to dismiss a misdemeanor criminal complaint.

³ *Id.* at § 6; *see* *Floyd v. Dist. Court*, 36 Nev. 349, 354, 135 P. 922, 924 (1913) (stating that the constitutional grant of final appellate jurisdiction to the district court is “also a prescription that the district court must assume final appellate jurisdiction in cases arising in a justice court, and hence it is the duty which the district court cannot either refuse or divest itself of”).

⁴ The court found that the justice court order granting Sandstrom’s motion to dismiss constituted a final judgment. *See* *Castillo v. State*, 106 Nev. 349, 351, 792 P.2d 1133, 1134 (1990) (defining a final judgment as one that disposes of all issues and leaves nothing for future consideration).

⁵ Sandstrom cited *Phelps v. State*, 111 Nev. 1021, 900 P.2d 344 (1995), *Castillo*, 106 Nev. 349, 792 P.2d 1133, *Taylor Constr. Co. v. Hilton Hotels*, 100 Nev. 207, 678 P.2d 1152 (1984), and *Kokkos v. Tsalikis*, 91 Nev. 24, 530 P.2d 756 (1975), to support his argument.

iii. Conflict Between Subsection 3 and Subsection 1(a)

Sandstrom also argued that the district court's application of NRS 177.015 was misplaced because subsection 3 of the statute affords only a defendant the right to appeal, not the State.

The court concluded, however, that subsection 1(a) of the statute is more appropriately read as vesting the district courts with the same appellate jurisdiction as is granted to the Nevada Supreme Court in subsection 1(b),⁶ while subsection 3 of the statute applies only to final judgments of conviction or verdicts in criminal cases.

iv. Chapter 189 of Nevada Revised Statutes Governs

Sandstrom's final argument was that the district court lacked jurisdiction because Chapter 189 of the Nevada Revised Statutes governs the procedures in appeals to the district court from cases arising in the justice court.⁷

The court rejected this argument because NRS 189.010 expressly states that its provisions apply "except as otherwise provided in NRS 177.015."

Conclusion

The court found that under NRS 177.015(1)(a), the State has a statutory right to appeal and the district court has jurisdiction to consider the State's appeal from a justice court order granting a motion to dismiss a misdemeanor criminal complaint. Therefore, the district court did not exceed its jurisdiction in considering the State's appeal. Additionally, the court applied its holding to cases where the State seeks to appeal to the district court from a municipal court order granting a motion to dismiss a misdemeanor criminal complaint.

⁶ NEV. REV. ST. § 177.015(1)(b) permits either the State or the defendant to appeal "to the Supreme Court from an order of the district court granting a motion to dismiss, a motion for acquittal or a motion in arrest of judgment, or granting or refusing a new trial."

⁷ NEV. REV. ST. § 189.010 provides: "Except as otherwise provided in NRS 177.015, a defendant in a criminal action tried before a justice of the peace may appeal from the final judgment therein to the district court of the county where the court of the justice of the peace is held, at an time within 10 days from the time of the rendition of the judgment."