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Summary of Langon v. Matamoros, 121 Nev. Adv. Op. 16

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Nevada Law Journal

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Recommended Citation

McDonald, Scott, "Summary of Langon v. Matamoros, 121 Nev. Adv. Op. 16" (2005). *Nevada Supreme Court Summaries*. 623.

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Langon v. Matamoros, 121 Nev. Adv. Op. 16, 111 P.3d 1077 (2005)¹

TORTS – PRESUMPTION OF LIABILITY

Summary

NRS 41.133, which mandates that a conviction of a crime resulting in injury to the victim is conclusive evidence of civil liability for the injury, does not apply to misdemeanor traffic offenses.²

Disposition/Outcome

Affirmed. The Nevada Supreme Court (“the Court”) found that the Nevada Legislature never intended to include convictions for misdemeanor traffic offenses under NRS 41.113.

Factual and Procedural History

The appellant, John Langon (“Langon”), was involved in a traffic accident with Julia Matamoros (“Matamoros”). Police cited Matamoros for failure to yield. Matamoros pleaded no contest, forfeited bail and paid a fine.

Langon subsequently sued Matamoros in civil court to recover for injuries sustained as a result of the incident. A verdict was returned in favor of Matamoros. Langon made a motion for judgment notwithstanding the verdict (JNOV) or a new trial which the district court denied. Langon appealed the court’s decision, arguing that NRS 41.133 made Matamoros’ no contest conviction conclusive evidence of her liability for his injuries.

Discussion

The Court had already decided that, prior to the passage of NRS 41.133, because of the equivocal nature of evidence regarding an individual’s forfeiture of bail in connection with a traffic citation, such evidence is not admissible as an admission in a civil proceeding.³ Furthermore, the Court noted “[e]vidence showing only that a party received a traffic citation is inadmissible in a civil action.”⁴

In 1985, however, the Nevada Legislature enacted NRS 41.133 which, in current form, provides: “If an offender has been convicted of the crime which resulted in the injury to the victim, the judgment of conviction is conclusive evidence of all facts necessary to impose civil liability for the injury.”⁵ Because the language of NRS 41.133 failed to address an issue affected

¹ By Scott McDonald

² *Langon v. Matamoros*, 111 P.3d 1077, 1078 (2005).

³ *Mendez v. Brinkerhoff*, 711 P.2d 163, 164 (Nev. 1989).

⁴ *Id.* (citing *Frias v. Valle*, 698 P.2d 875, 876 (Nev. 1985)).

⁵ NEV. REV. STAT. 41.133 (2004).

by its application, here, application to misdemeanor traffic offenses, the Court looked to “public policy to discern legislative intent.”⁶

The Court stated that NRS 41.133 was enacted “from a group of victims’ rights bills” which included provisions prohibiting convicted offenders “from suing victims for injuries sustained during the commission” of their criminal activity.⁷ In finding that the legislature intended NRS 41.133, and its companion provision NRS 41.135, to apply to malum in se, and not malum prohibitum offenses, the Court held that “NRS 41.133 does not apply to misdemeanor violations of state and local traffic offenses.”⁸

The Court also noted that application of NRS 41.133 to misdemeanor traffic offenses would thwart the state’s comparative negligence scheme under NRS 41.141.⁹ “If NRS 41.133 were applied as Langon suggests, discretionary police decisions to issue traffic citations, regardless of potential evidence of comparative negligence, would serve to override the basic statutory construct” of NRS 41.141.¹⁰

Conclusion

Convictions for misdemeanor traffic offenses may not be used to conclusively establish civil liability.

⁶ *Langon*, 111 P.3d at 1078 (footnote omitted).

⁷ *Id.* (footnote omitted).

⁸ *Id.*

⁹ *Id.* at 1078-79.

¹⁰ *Id.* at 1079.