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Summary of Walker v. District Court, 120 Nev. Adv. Op. 88

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CRIMINAL LAW – USE OF CRIMINAL RECORDS

Summary

Petitioner Sam Walker filed a writ of mandamus with the Nevada Supreme Court to challenge a district court order which granted a motion by the State to unseal Walker's criminal records. The State brought its motion pursuant to Nevada Revised Statute 179.295.

Disposition/Outcome

Granted. The Nevada Supreme Court granted Walker's petition because the district court manifestly abused its discretion in issuing the order to unseal Walker's criminal records.

Factual and Procedural History

This petition arises from the federal prosecution of Walker for drug trafficking, felon in possession of a firearm, and possession of a three barrel shotgun. In 2003, the North Las Vegas SWAT team conducted a search of a residence at which Walker was present and arrested Walker. In the course of the search, the state found documents indicating that sealed records existed concerning a criminal case in which Walker had been involved in 1989. The district court had ordered the records sealed on October 2, 1998.² The state did not prosecute the case, but turned it over to the U.S. Attorney's office for prosecution. Although the state declined to prosecute, it moved the district court to unseal the records so that the federal government could use them for impeachment purposes in its current case against Walker.³ In its motion to the district court the state argued that Nevada Revised Statute 179.295 allowed the court to unseal the Walker's prior criminal records.⁴ The district court granted the state's motion, stating

¹ Summarized by Angela Morrison.

² The court noted: "It is unclear whether the original [1989] charges were dismissed or whether Walker petitioned for his records to be sealed, but the district court proceeded under the theory that Walker's records were sealed due to dismissal of the charges in 1989." *Walker v. Dist. Ct.*, 101 P.3d 787, 789 (2004).

³ The 2003 charges are not related to the 1989 incident. *Id.*

⁴ NEV. REV. STAT. 172.295 provides in pertinent part:

(2) If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or similar offense and that there is sufficient evidence reasonably to conclude that he will stand trial for the offense.

(3) The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information related to persons who were involved in the incident recorded.

that Walker would suffer no prejudice because the purpose was not to reopen the 1989 charges. As a result, Walker filed a petition for writ of mandamus with the Nevada Supreme Court.

Discussion

This petition involved the issue of whether Nevada Revised Statute 179.295 provided the authority to unseal Walker's records. The Nevada Supreme Court noted that "where the records of a criminal conviction are sealed by district court pursuant to specific statutory authority, that conviction may not be disclosed in a public proceeding such as a criminal trial absent specific statutory authority providing for such disclosure."⁵ Thus, the court turned to Nevada Revised Statute 179.295 and whether it provided the statutory authority necessary for the district court to unseal Walker's criminal records.

Nevada Revised Statute 179.295 contains two provisions pertinent to this petition. The first, Nevada Revised Statute 179.295(2), allows the state to reopen sealed records "related to dismissed charges upon a showing that, based on newly discovered evidence, a person has been arrested for the same or similar offense and that he will likely stand trial for the offense."⁶ The second, Nevada Revised Statute 179.295(3), allows "a prosecuting attorney or defendant in a criminal action to inspect a sealed record for the purpose of obtaining information relating to codefendants or other persons who were involved in the case that is the subject matter of the sealed record."⁷

The district court had focused on the phrase "same or similar" in the first provision and concluded that because Walker's 2003 charge involves drug charges it is similar to the 1989 charges, allowing the court to reopen the 1989 records. The Nevada Supreme Court pointed out two errors in this interpretation. First, the district court read the term "newly discovered evidence" out of the statute and the state had presented no newly discovered evidence. Second, the district court interpreted the term "same or similar" too broadly. The Nevada Supreme Court held that the provision does not permit the state to use unsealed records in an unconnected trial nor does it allow the state to use such evidence even in a connected trial unless the state presents newly discovered evidence. Thus, the court determined that Nevada Revised Statute 179.295(2) did not provide the district court with the authority to unseal Walker's criminal records.⁸

Additionally, the Nevada Supreme Court concluded that Nevada Revised Statute 179.295(3) did not provide the district court with the authority to reopen Walker's records. The state argued that the provision allowed it to inspect Walker's records to obtain information. However, the court held that the statute only permitted a prosecuting attorney to inspect the records to obtain information relating to "codefendants or other persons who were involved in the case that is the subject matter of the sealed record."⁹ Because the state sought to inspect the records to turn over information to the federal government for the purpose of impeaching Walker in an unconnected trial, the court held that Nevada Revised Statute 179.295(3) did not grant the district court the authority to

⁵ *Walker*, 101 P.3d at 790 (quoting *Yllas v. State*, 112 Nev. 863, 866, 920 P.2d 1003, 1005 (1996)).

⁶ *Id.* at 791 (summarizing NEV. REV. STAT. 179.295(2)).

⁷ *Id.* at 792 (summarizing NEV. REV. STAT. 179.295(3)).

⁸ *Id.* at 791.

⁹ *Id.* at 792.

reopen Walker's criminal records.¹⁰ Therefore, the Nevada Supreme Court granted the petition and issued a writ ordering the district court to vacate its decision granting the state's motion to unseal the records.¹¹

Conclusion

In *Walker*, the Nevada Supreme Court clarified the meaning of Nevada Revised Statute 179.295, which allows a district court to unseal an individual's criminal record in certain instances. Those instances are limited to when a person is charged in connection to the criminal charges in the sealed record and the state possesses newly discovered evidence, and to the inspection of the records by prosecutors or the defendant only for the purpose of garnering information related to codefendants or others involved in the crime in the sealed records. The court's holding in *Walker* gives effect to the statute's plain language and provides individuals with greater guarantees that their sealed records will remain so.

¹⁰ *Id.*

¹¹ *Id.* at 792.