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Summary of Stockmeier v. Green, 130 Nev. Adv. Op. 99

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ADMINISTRATIVE LAW: INMATE DIETS

Summary

The court determined that Nevada’s Chief Medical Officer’s examination of inmate diets and her resulting report to the Board fell well short of what was required by NRS 209.382(1)(b) in that it included no analysis of the diets of general population inmates, addressed diets at only one of Nevada’s correctional facilities, and generally lacked any indication as to how the required examination was conducted.

Background

Robert Leslie Stockmeier (“Stockmeier”), inmate at Lovelock Correctional Center, filed petition seeking writ of mandamus and injunctive relief to compel respondent Tracey Green (“Green”), Chief Medical Officer for the State of Nevada, to comply with NRS 209.382(1)(b)² by examining nutrition of inmate diet and reporting findings to the Board of State Prison Commissioners (“the Board”). Stockmeier alleged Green failed to comply with the statutory requirements by not examining ingredients of inmate food and instead relying on a dietician’s report based on the printed menu provided to inmates. Stockmeier further alleged Green ignored a finding from the Nevada Department of Corrections indicating inmate food possessed high levels of sodium, cholesterol, and protein, which could lead to adverse health conditions.

Stockmeier moved for summary judgment on the initial petition, and Green responded. Green asserted she regularly inspected inmate diets and had submitted a written report on the matter to the Board in 2011. The district court denied Stockmeier’s petition. Stockmeier appealed.

The Supreme Court of Nevada reversed the denial of Stockmeier’s petition.³ The Court noted Green failed to provide the district court with any reports or evidence refuting Stockmeier’s assertions. The Court concluded the district court abused its discretion in denying Stockmeier’s petition and remanded the case with instructions requiring Green to submit the required reports.⁴

On remand, Green submitted the entire report and minutes from the 2011 meeting in which Green informed the Board she found no nutritional deficiencies in inmates’ dietary options. This report, however, focused mainly on issues regarding medical care of inmates, rather than inmate dietary choices. References to inmate diet were based on a dietician’s review of inmate meal choices at one institution and within the prison hospital.⁵

¹ By Tom Stewart.

² NEV. REV. STAT. 209.382(1)(b): The Chief Medical Officer shall periodically examine and shall report to the Board semiannually upon the following operations of the Department: [. . .] The nutritional adequacy of the diet of incarcerated offenders taking into account the religious or medical dietary needs of an offender and the adjustment of dietary allowances for age, sex and level of activity.

³ See *Stockmeier v. Green*, Docket No. 58067 (Order of Reversal and Remand, March 13, 2012).

⁴ *Id.*

⁵ The Court notes this review appears to have been prompted by the correctional facility, as opposed to by Green’s required inspection.

Stockmeier argued Green's materials demonstrated failure to comply with NRS 209.382(1)(b) because it lacked discussion of general population inmate diets and contained only limited discussion germane to the diets of a small number of inmates. Green disputed Stockmeier's assertion, providing a declaration stating her employees complied with statutory regulations. Green did not provide information on when or how these inspections were conducted, but did state that no cases of malnutrition had been discovered.

The district court again denied Stockmeier's petition, holding that Green's 2011 report to the Board satisfied NRS 209.382(1)(b). Despite finding Green complied with NRS 209.382(1)(b), the district court noted Green's failure to inspect and report inmate dietary conditions "on a uniform and consistent basis" and urged her to continue to comply with NRS 209.382(1)(b) in a "uniform and documented manner." Stockmeier appealed the decision to the Supreme Court of Nevada.

Discussion

Stockmeier contends Green failed to comply with NRS 209.382(1)(b), and that the district court should grant his petition for a writ of mandamus compelling Green to do so. Green disagrees. The Court reviews a district court's denial of petition for writ of mandamus for an abuse of discretion, and reviews questions of statutory interpretation de novo.⁶

NRS 209.382(1)(b) provides the Chief Medical Officer of the State of Nevada "shall periodically examine and shall report to the Board" on a semiannual basis regarding "[t]he nutritional adequacy of the diet of incarcerated offenders taking into account the religious or medical dietary needs of an offender and the adjustment of dietary allowances for age, sex, and level of activity." If the report reveals nutritional deficiencies, NRS 209.382(2) provides the Board "shall take appropriate action to remedy any deficiencies."

Green failed to comply with the broad examination and reporting requirements set forth in NRS 209.382(1)(b)

The Court holds, even though the nonspecific language provides the Chief Medical Officer broad discretion to fulfill her statutory duties, the "report to the Board was inadequate." Green failed to thoroughly examine and report on inmate dietary needs, instead relying on the single 2011 report. The report, however, focused on issues outside the scope of requirements under NRS 209.382(1)(b). The only reference to the general population of Lovelock Correctional Center is a note indicating a dietician "had never been to [Lovelock] correctional center and [had] only reviewed menus for nutritional adequacy." The report suggests this review was done as part of a different, intra-prison review, not as a part of Green statutory duties.

Further, the report indicates that only the menus were reviewed, not the food itself. Stockmeier provided the Court with menus from Lovelock, which were vague (e.g. describing lunch offering as "Sacks" and certain dinner offerings as "Chefs Choice") and did not include nutritional information. The 2011 report does not contain any indication that Green or her staff inspected the meals themselves. The Court held the report to be inadequate and noncompliant with NRS 209.382(1)(b).

⁶ Reno Newspapers, Inc. v. Haley, 126 Nev. 211, 214, 234 P.3d 922, 924 (2010).

Assessing nutritional adequacy requires more than merely ensuring inmates are not malnourished

The district court accepted Green's position that NRS 209.382(1)(b) requires her to only determine inmate meals to not result in malnutrition or vitamin deficiency. The Court disagreed with this conclusion. The Court held that, because the language of NRS 209.382(1)(b) requires the Chief Medical Officer to "examine" the "nutritional adequacy" of the inmate diets in light of "religious or medical dietary needs" and the "age, sex and activity level" of inmates, the Legislature intended the statute to require Green to do more than ensure inmates are not malnourished or vitamin deficient.⁷ Further, NRS 209.382(1) requires inmates be fed a "healthful diet," indicating Green must go beyond merely looking for signs of malnutrition or vitamin deficiency. The Court held, in light of this statutory interpretation, Green's 2011 report failed to comply with NRS 209.382(1)(b).

Writ relief was warranted

Stockmeier's final assertion is that Green failed to comply with NRS 209.382(1)(b) by not reporting every six months to the Board. Green does not dispute this requirement, and indicated her intent to comply. The Court found Green's indication of future compliance as an indirect admission of noncompliance. Though the Court declined Stockmeier's request to declare the reporting requirement to be strict six-month intervals, the Court held Green had not complied with NRS 209.382(1)(b). Therefore, a writ of mandamus was warranted, and the district court abused its discretion in denying Stockmeier's petition for a writ of mandamus.⁸

Conclusion

The Court reversed the district court's denial of Stockmeier's petition and remanded the matter to the district court. On remand, the district court will issue a writ of mandamus ordering Green to comply with NRS 209.382(1)(b).

⁷ See *Allstate Ins. Co. v. Fackett*, 125 Nev. 132, 138, 206 P.3d 572, 576 (2009) (holding statutes should be interpreted in harmony with their statutory scheme).

⁸ NRS 34.160 (providing mandamus relief is appropriate "to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station"); *Mineral Cnty. V. State, Dep't of Conservation & Natural Res.*, 117 Nev. 235, 242-43, 20 P.3d 800, 805 (2001) (holding that, in order for mandamus relief to be appropriate, "the action being compelled must be one already required by law"); *Reno Newspapers*, 126 Nev. 214, 234 P.3d at 924 (providing the Court reviews the district court's denial of a petition for a writ of mandamus for an abuse of discretion.)