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State v. Harris, 131 Nev. Adv. Op. 56

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State v. Harris, 131 Nev. Adv. Op. 56 (July 30, 2015)[1]

CRIMINAL PROCEDURE

Summary

The Court held that it has the jurisdiction to consider an appeal by the State from an order granting a prejudgment motion for a new trial in a criminal matter because the plain language of NRS 177.015(1)(b) authorizes such an appeal and because unique policy concerns identified in *State v. Lewis*[2] do not apply.

Background

On October 2, 2013, a jury returned verdicts finding respondent Mariann Harris guilty of first-degree murder, child abuse, and neglect. Before the sentencing, Harris filed a timely motion for a new trial. The district court granted the motion and the State appealed the order under NRS 177.015(1)(b). The Court ordered the State to show cause why the appeal should not be dismissed for lack of jurisdiction because *Lewis* only permits appeals from district court orders "resolving *post-conviction* motions for a new trial".[3]

Discussion

The plain language of NRS 177.015 allows for the State to appeal any order granting a new trial

When a statute contains plain language, the statue's intention must be deduced from the language and the court cannot go beyond it.[4] Furthermore, a statue must be read harmoniously with other statutes and should not be read to produce unreasonable or absurd results.[5] The plain language of NRS 177.015 provides that any aggrieved party, whether it is the State or the defendant, may appeal "from an order of the district court… granting or refusing a new trial," thus allowing an appeal from an order granting a motion for a new trial and does not limit the right to an appeal based on when the motion was filed or when the order resolving it was entered.

State v. Lewis holds that NRS 177.015(1)(b) only authorizes appeals from post-conviction motions for a new trial

The Court held in *Lewis* that the State did not have a statutory right to appeal from an order granting a presentence motion to withdraw a guilty plea.[6] The Court analyzed NRS 177.015(1)(b) in light of NRAP 3A because both contain similar language and NRAP 3A had been interpreted to only allow for an appeal from an order denying a post-judgment motion for a new trial.[7] The Court also determined that "compelling policy justifications" such as ensuring a

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[1] By Ashleigh Wise.
[2] 124 Nev. 132, 136, 178 P.3d 146, 148 (2008).
[3] 124 Nev. at 136.
[4] State v. Colosimo, 122 Nev. 950, 960, 142 P.3d 352, 359 (2006).
[5] Washington v. State, 117 Nev. 735, 739, 30 P.3d 1134, 1136 (2001).
[6] 124 Nev. at 136.
[7] *Id*. at 135.

complete record for appellate review, supported a holding disfavoring appeals from intermediate orders and for requiring a final judgment "before this court is vested with jurisdiction."[8] Thus, the Court concluded that an order granting a prejudgment motion to withdraw a guilty plea is not appealable "because it is an intermediate order of the district court."[9] Lastly, the Court held that the State would not be deprived of its right to appellate review of an erroneous decision by the district court because the State "generally suffers no substantial prejudice" when a motion to withdraw a guilty plea is granted because "[t]he State may proceed to trial on the original charges or enter into a new plea bargain with the defendant." *Id*. at 137, 178 P.3d at 149.

The rationale behind *Lewis* is that despite the plain language of NRS 177.015(1)(b) it does not include intermediate orders, which is any order entered before a judgment of conviction. This ruling is consistent with the final judgment rule and the policy reasons behind that rule. However, this rationale is less persuasive when applied to presentencing orders granting a new trial in criminal cases and when considering the different effects of granting a motion to withdraw a guilty plea versus granting a motion for a new trial.

The unique policy rationale regarding presentence orders granting a new trial in a criminal case shows that NRS 177.015(1)(b) should be interpreted differently than NRAP 3A(b)(2)

A district court has discretion in deciding a motion for a new trial, but that discretion is not as "vast" as with a prejudgment motion to withdraw a guilty plea, which may be granted for any reason that is fair and just.[10] The State can likely demonstrate that a district court exceeded its discretion in granting a motion for a new trial, particularly given the potential injustice if the defendant obtains an acquittal following an improvidently granted new trial. The State can also be substantially prejudiced when a motion for a new trial is granted due to the waste of time and resources used to conduct the first trial.

The Court overruled *Lewis* to the extent that it would not permit an appeal by the State from an order granting a prejudgment motion for a new trial. The financial interests of the State in preventing an improvidently granted new trial outweigh the policy justifications in *Lewis*.

Lewis is not overturned in situations of an appeal of an interlocutory order denying a motion for a new trial

This holding does not authorized a defendant to appeal from a prejudgment order denying a motion for a new trial because this is an intermediate order and can be reviewed on appeal from the judgment of the conviction.[11] This is consistent with the policy considerations in Lewis and does not disturb the Lewis holding as it applies to orders denying a prejudgment motion for a new trial.

Conclusion

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[8] *Id*. at 136.
[9] *Id*. at 136, 137.
[10] *See* State v. Second Judicial Dist. Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969).
[11] NEV. REV. STAT. § 177.045 (1967).

The Court overruled Lewis to the extent that it prohibits the State from pursuing its statutory right to appeal a prejudgment order granting a motion for a new trial. The Court held that it has jurisdiction to hear the State's appeal of the district court's order granting Harris's motion for a new trial.