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Henry v. Nev. Comm'n On Judicial Discipline, 135 Nev. Adv. Op. 5 (Feb. 28, 2019) (en banc)

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Henry v. Nev. Comm'n On Judicial Discipline, 135 Nev. Adv. Op. 5 (Feb. 28, 2019) (en banc)¹

STATE CONSTITUTIONAL LAW: JURISIDICIION

Summary

The Court held that NRS § 1.428 is constitutional. Thus, hearing masters are subject to the Nevada Commission on Judicial Discipline's jurisdiction.

Background

Jennifer Henry is a Hearing Master for the Eighth Judicial District Court of Nevada. On October 10, 2016, Henry presided over a juvenile hearing where she allegedly acted inappropriately. Judge William Voy, Chief Judge David Barker, and Judge Charles Hoskin listened to a recording of the hearing, and determined she acted improperly. On October 10, 2017, the Nevada Commission on Judicial Discipline filed charges against Henry. Henry challenged the Commission's jurisdiction.

Discussion

The Nevada Constitution provides that a Supreme Court justice, a judge for the court of appeals, a district judge, a justice of the peace or municipal judge may be removed or disciplined by the Commission.² Henry argued that the Commission does not have jurisdiction to discipline her under the Nevada Constitution, and that NRS § 1.428³ impermissibly expanded the definition of "judge" to include hearing masters.

Henry conceded that hearing masters serve the same purpose as a judge, but argued that hearing masters must be in the Nevada Constitution for the Commission to have jurisdiction over her. Conversely, the Commission argued that under the Nevada Constitution, the legislature may provide laws for referees in district court.⁴ The Court noted that it previously held that multiple provisions of the Nevada Constitution may be read in tandem.⁵ Prior to adding municipal court judges to the list of judges subject to Commission jurisdiction, a municipal judge challenged the legislature's authority to add municipal judges to that list.⁶ There, the Court held that the legislature may expand the Commission's jurisdiction to add municipal court judges.⁷

The Court held that the same rule applies here. Henry further argued that the Commission's creation was intended to hold elected judges accountable, and that hearing masters are appointed so they fall out of the Commission's purview. Henry relied on *Ramsey v. City of N. Las Vegas*, but the Court held that this case supported its position of having a standardized system of judicial governance, where the Commission will have jurisdiction over a multitude of judicial officers.⁸

¹ By James Puccinelli.

² NEV. CONST. art. 6, § 21(1).

³ NEV. REV. STAT. § 1.428 (West 2017).

⁴ NEV. CONST. art. 6, § 6(2).

⁵ See *In re Davis*, 113 Nev. 1204, 1213, 946 P.2d 1033, 1039 (1997).

⁶ *Id.*

⁷ *Id.*

⁸ 133 Nev. 96, 96, 392 P.3d 614, 616 (2017).

Conclusion

The Court held that the Commission did not act outside of its jurisdiction here because it has the authority to discipline Henry under a valid statute, NRS § 1.428.