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Litchfield v. Tucson Ridge HOA, 140 Nev. Adv. Op. 57 (Sept. 5, 2024)¹

THE LAW-OF-THE-CASE DOCTRINE REQUIRES DEFERENCE TO THE PREDECESSOR JUDGE, AND AN IDENTICAL LEGAL ISSUE MAY NOT BE RECONSIDERED BY A SUCCESSOR JUDGE UNLESS AN EXCEPTION APPLIES.

Summary

The Nevada Supreme Court considered the law-of-the-case doctrine, and how a predecessor judge's decision regarding a legal issue will restrict a successor judge's ability to rule on an identical issue within one case. In this case, Tucson Ridge Homeowners Association, Prime Community Management, LLC, and Level Property Management, LLC ("TRHOA") moved for summary judgment asking the successor judge to reconsider a legal issue that was decided by a predecessor judge during a motion to dismiss. The Court disagreed with the successor judge that reconsidered a previously ruled on legal issue, because the law-of-the-case doctrine does not allow a successor judge to reconsider an identical legal issue within one case, unless an exception applies.

Background

This is an appeal from the district court's order granting summary judgment in favor of TRHOA. The Nevada Supreme Court considered whether a trial judge is bound by the decisions of a previously assigned trial judge at the motion to dismiss stage under the law-of-the-case doctrine.

In this case, the Litchfields are an interracial couple, who alleged they were harassed and excessively fined by TRHOA. The case was originally assigned to the Honorable Jim Crockett. TRHOA moved to dismiss the Litchfields' claims on grounds that NRS 38.310 requires the action to be submitted to mediation. NRS 38.310 requires claims to be submitted to mediation, if the claims relate to the interpretation or application of the HOA's covenants, conditions, or restrictions (CC&Rs).² Judge Crockett denied the motion to dismiss, finding that the Litchfields' claims could be resolved without implicating NRS 38.310.

Subsequently two years later, after Judge Crockett retired, the case was reassigned to the Honorable Jessica K. Peterson. TRHOA moved for summary judgment again, arguing that the Litchfields' implicate NRS 38.310 and the case should be submitted to mediation. Judge Peterson granted TRHOA's motion, finding that she was not bound by Judge Crockett's previous ruling of the implication of NRS 38.310. Additionally, TRHOA moved for attorney fees, which was denied.

Discussion

The question on appeal was whether the law-of-the-case doctrine permits a successor judge to reconsider a previous legal conclusion made by their predecessor judge, and if exception to the doctrine applies. The Litchfields argue that Judge Peterson's reconsideration of the legal question of NRS 38.310 application is plain error. TRHOA argues that Judge Crockett's clear error required the trial court to consider the application of NRS 38.310. The Nevada Supreme Court found that the trial court erred, because the law-of-the-case doctrine requires deference to the predecessor

¹ By Kaylee Heiny.

² NEV. REV. STAT. § 38.310

judge decisions at all stages of the case, and there are no exceptions for identical legal issue raised at a later stage in the case.

The law-of-the-case doctrine and its exceptions

The Nevada Supreme Court first looked at the law-of-the-case doctrine, which states that a legal decision made at one stage of a proceeding should remain the law of that particular case, unless or until the decision is modified or overruled by a higher court.³ The doctrine was developed for policy reasons to ensure judicial consistency, finality, and protection of the court's integrity.⁴

The doctrine is not unlimited, and some exceptions apply in some rare instances.⁵ The Court formally adopted these exceptions to the law-of-the-case doctrine that are (1) subsequent proceeding produces substantially new or different evidence, (2) there has been an intervening change in controlling law, or (3) the prior decision was clearly erroneous and would result in a manifest injustice if enforced.⁶

The legal issue was identical, and no exception to the law-of-the-case doctrine applies

In this case, the legal issue revisited by the succeeding judge was identical to the issue addressed by the predecessor. The issue at both stages was a purely legal question of whether the Litchfelds' claims relates to CC&Rs, which would implicate NRS 38.310. During the summary judgment stage, Judge Peterson should not have revisited Judge Crockett's decision on this legal question.

Further, there are no applicable exceptions that would allow revisiting the decision. First, the exception for substantially different evidence does not apply because implication of NRS 38.310 did not require additional evidence produced at the summary judgement stage. Second, the exception for an intervening change to controlling law does not apply, because the parties did not argue for this exception. Third, the exception for the prior decisions being clearly erroneous that it would result in an injustice does not apply because Judge Crockett properly addressed the legal issue. Because no exception applied, the Court held that the district court erred when it revisited the issue of whether NRS 38.310 applied.

Conclusion

The Nevada Supreme Court held that the law-of-the-case doctrine requires deference to the decision made by a judge at each stage in a case. Unless a valid exception applies, a judge should not revisit decisions made by a predecessor judge within the same matter. In this case, the successor judge revisited an identical legal issue that was decided by a predecessor, and no valid exception applied because there was no substantial new evidence, an intervening controlling law, or evidence that the prior decision was clearly erroneous. As a result, the predecessor judge erred by granting summary judgment because there was no exception to the law-of-the-case doctrine.

³ Negrón-Almeda v. Santiago, 579 F.3d 50—51 (1st Cir. 2009) (quoting United States v. Moran, 393 F.3d 1, 7 (1st Cir. 2004)).

⁴ Hsu v. County of Clark, 123 Nev. 625, 630, 173 P.3d 724, 729 (2007).

⁵ *Id.*; Clem v. State, 119 Nev. 615, 620, 81 P.3d 521, 525 (2003); Leslie v. Warden, 118 Nev. 773, 780, 59 P.3d 440, 445 (2002).

⁶ *Id.* at 630.