

SUPREME COURT OF NEVADA

Powers v. Eighth Judicial District Court (Bueno)

142 Nev. Adv. Op. No. 35 (2026) · No. 89144 · Decided May 14, 2026

SUMMARY

The Nevada Supreme Court considered a petition for writ relief challenging conditions imposed on a neuropsychological examination during civil discovery. The court held that NRS 629.620 is unconstitutional and of no effect to the extent it conflicts with NRCP 35, because it encroaches on the judiciary's authority to regulate discovery procedure. The court upheld disclosure of raw testing data to counsel subject to a protective order, but concluded that the district court had not established sufficient good cause for audio recording or an interpreter.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Chief Justice Herndon; Justice Pickering; Justice Bell; Justice Stiglich; Justice Cadish; Justice Lee
JURISDICTION	Supreme Court of Nevada
DECIDED	May 14, 2026
DOCKET	89144
DISPOSITION	other
PROCEDURAL POSTURE	Original petition for a writ of mandamus or, alternatively, prohibition challenging a district court discovery order compelling a neuropsychological examination.
STANDARD OF REVIEW	The court reviewed the constitutionality of NRS 629.620 de novo. Discovery rulings were reviewed for abuse of discretion; an abuse occurs when the district court relies on a clearly erroneous factual determination, disregards controlling law, or applies an incorrect legal standard.
PRECEDENTIAL VALUE	Published, precedential en banc opinion of the Supreme Court of Nevada
PARTIES	Gabriel Powers v. The Eighth Judicial District Court of the State of Nevada, in and for the County of Clark, The Honorable Gloria Sturman, District Judge

TOPICS

discovery dispute appellate procedure civil procedure separation of powers constitutional law

PRACTICE AREAS

civil procedure constitutional law appellate procedure discovery

QUESTIONS PRESENTED

1. Whether the Nevada Supreme Court should exercise advisory mandamus jurisdiction over a challenge to the district court's discovery order.
2. Whether NRS 629.620 is constitutional to the extent it imposes conditions on court-ordered mental or physical examinations conducted under NRCP 35 during civil discovery.
3. Whether the district court abused its discretion by permitting disclosure of raw neuropsychological testing data to counsel and other litigation participants subject to a protective order.
4. Whether the district court abused its discretion by permitting audio recording of the neuropsychological examination without sufficient good cause.
5. Whether the district court abused its discretion by requiring the examination's interview portion to be conducted with a court-certified interpreter.
6. Whether the examination conditions violated Powers's due process rights.

HOLDINGS

1. NRS 629.620 violates the separation of powers doctrine and is of no effect to the extent it imposes conditions that conflict with or exceed those established by NRCP 35 for court-ordered mental or physical examinations during civil discovery.
2. The district court did not abuse its discretion by permitting disclosure of raw testing data and testing materials to Bueno's counsel and other litigation participants, subject to a protective order.
3. The district court abused its discretion by permitting audio recording of the entire examination without articulating fact-specific circumstances amounting to good cause.
4. The district court abused its discretion by ordering an interpreter for the interview portion of the examination absent evidence of a real need or good cause.
5. Powers failed to demonstrate that the examination conditions violated his due process rights.

KEY QUOTATIONS

“We hold that NRS 629.620 violates the separation of powers doctrine to the extent that it imposes conditions that conflict with or exceed those that NRCP 35 establishes for court-ordered independent medical or physical examinations during discovery.” (2)

“The generalized fears of some neuropsychologists that nonpsychologists, if they are provided raw data, will violate protective orders, misuse the tests, and irreparably compromise the validity of future testing, is not

sufficient to eliminate the broad discretion afforded to trial courts to order the disclosure of raw data as they seek to ensure the fairness of judicial proceedings.” (15)

“Moreover, allowing the recording should be the exception rather than the norm; finding good cause to do so must be based on fact-specific circumstances, as opposed to generalized fears or concerns that would apply to any party and/or any exam, since the examinee themselves can typically rebut the examiner’s contentions with personal knowledge.” (17)

“We hold that NRS 629.620 is unconstitutional and thus of no effect, to the extent it pertains to discovery during civil litigation.” (21)

FACTUAL BACKGROUND

Gabriel Powers and Carlos Patino Bueno were involved in a motor vehicle collision. Bueno sued Powers, alleging a traumatic brain injury and seeking nearly \$2 million in damages. The parties agreed to a neuropsychological examination but disagreed about its conditions. The district court ordered disclosure of raw testing data subject to restrictions, permitted audio recording, and required a court-certified interpreter to attend the examination.

PROCEDURAL HISTORY

Carlos Patino Bueno sued Gabriel Powers after a motor vehicle collision, alleging traumatic brain injury and seeking nearly \$2 million in damages. The parties agreed that Bueno would undergo a neuropsychological examination but disputed the examination conditions. The district court ruled that NRCP 35 governed, imposed conditions concerning raw data, recording, and an interpreter, and denied Powers's motion for reconsideration. Powers then sought writ relief. The Nevada Supreme Court entertained the petition under its advisory mandamus framework, granted mandamus in part, denied prohibition, and lifted its prior stay.

DISPOSITION

other

REMAND INSTRUCTIONS

The clerk must issue a writ of mandamus directing the district court to modify the conditions of Bueno's neuropsychological examination by denying the presence of an interpreter and striking the audio-recording condition unless sufficient alternative good cause is shown. The petition was denied in all other respects, and the October 8, 2024 stay was lifted.

CASES CITED

- Lyft, Inc. v. Eighth Judicial District Court, 137 Nev. 832, 501 P.3d 994 (2021)
- General Motors Corp. v. Eighth Judicial District Court, 122 Nev. 466, 134 P.3d 111 (2006)
- International Game Technology, Inc. v. Second Judicial District Court, 124 Nev. 193, 179 P.3d 556 (2008)
- Club Vista Financial Services v. Eighth Judicial District Court, 128 Nev. 224, 276 P.3d 246 (2012)
- Archon Corp. v. Eighth Judicial District Court, 133 Nev. 816, 407 P.3d 702 (2017)

- Williams v. State, Department of Corrections, 133 Nev. 594, 402 P.3d 1260 (2017)
- Laird v. State, Public Employees' Retirement Board, 98 Nev. 42, 639 P.2d 1171 (1982)
- Finke v. Comair, Inc., 489 S.W.3d 242 (Ky. Ct. App. 2016)
- Tam v. Eighth Judicial District Court, 131 Nev. 792, 358 P.3d 234 (2015)
- Hefetz v. Beavor, 133 Nev. 323, 397 P.3d 472 (2017)
- State v. Connery, 99 Nev. 342, 661 P.2d 1298 (1983)
- Commission on Ethics v. Hardy, 125 Nev. 285, 212 P.3d 1098 (2009)
- Azar v. Allina Health Services, 587 U.S. 566 (2019)
- Sibbach v. Wilson & Co., 312 U.S. 1 (1941)
- State v. Second Judicial District Court (Marshall), 116 Nev. 953, 11 P.3d 1209 (2000)
- Jones v. Coty Inc., 362 F. Supp. 3d 1182 (S.D. Ala. 2018)
- Claypool v. Mladineo, 724 So. 2d 373 (Miss. 1998)
- Randy's Trucking, Inc. v. Superior Court of Kern County, 308 Cal. Rptr. 3d 645 (2023)
- Carpenter v. Superior Court of Alameda County, 45 Cal. Rptr. 3d 821 (2006)
- Wright v. Hobby Lobby Stores, Inc., 344 F.R.D. 538 (D. Colo. 2023)
- Cook v. Nation Express, LLC, No. 3:20-cv-77, 2021 WL 640508 (S.D. Ohio Jan. 19, 2021)
- Glennon v. Performance Food Group, Inc., No. 2:20-cv-38, 2021 WL 3130050 (S.D. Ga. July 23, 2021)
- Nogess v. Poydras Center, LLC, No. 16-15227 c/w No. 16-15234, 2018 WL 1172958 (E.D. La. Mar. 6, 2018)
- Schaffer v. Sequoyah Trading & Transportation, 273 F.R.D. 662 (D. Kan. 2011)
- Greenhorn v. Marriott International, Inc., 216 F.R.D. 649 (D. Kan. 2003)
- Maldonado v. Union Pacific Railroad Co., No. 09-1187-EFM, 2011 WL 841432 (D. Kan. Mar. 8, 2011)
- Caballero v. Seventh Judicial District Court, 123 Nev. 316, 167 P.3d 415 (2007)
- MB America, Inc. v. Alaska Pacific Leasing, 132 Nev. 78, 367 P.3d 1286 (2016)
- Staccato v. Valley Hospital, 123 Nev. 526, 170 P.3d 503 (2007)

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