

SUPREME COURT OF NEVADA

Canarelli v. Eighth Judicial District Court

2022 NV 12 · No. 82299 · Decided March 24, 2022

SUMMARY

The Nevada Supreme Court granted a petition for a writ of mandamus and directed the chief judge to reinstate Judge Gloria J. Sturman in the underlying trust proceeding. The court held that when alleged judicial bias arises from a judge’s performance of judicial duties, the Kirksey standard applies, requiring evidence of deep-seated favoritism or antagonism that would make fair judgment impossible; reviewing privileged discovery materials did not satisfy that standard.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Silver, J.; Parraguirre, C.J.; Hardesty, J.; Herndon, J.; Stiglich, J.; Cadish, J.; Pickering, J.
JURISDICTION	Nevada
DECIDED	March 24, 2022
DOCKET	82299
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original petition for a writ of mandamus or, alternatively, prohibition challenging the disqualification of a district court judge.
STANDARD OF REVIEW	The proper legal standard for judicial disqualification is reviewed de novo; the decision whether to recuse is otherwise reviewed for clear abuse of discretion. The decision to entertain a writ petition is discretionary.
PRECEDENTIAL VALUE	Published precedential Nevada Supreme Court opinion
PARTIES	Scott Canarelli, beneficiary of the Scott Lyle Graves Canarelli Irrevocable Trust v. The Eighth Judicial District Court of the State of Nevada, in and for the County of Clark

TOPICS

- attorney client privilege
- work product doctrine
- privilege
- writ of certiorari
- appellate procedure

PRACTICE AREAS

Civil procedure

Appellate procedure

Judicial disqualification

Trust litigation

Evidence and privilege

QUESTIONS PRESENTED

1. Whether the Nevada Supreme Court should exercise its discretion to consider a writ petition challenging an interlocutory judicial-disqualification order.
2. Whether the Kirksey deep-seated-favoritism-or-antagonism standard, rather than the objective standard in Nevada Code of Judicial Conduct Rule 2.11(A), governs disqualification when the alleged bias arises from a judge's performance of judicial duties.
3. Whether the record showed that Judge Sturman formed an opinion demonstrating deep-seated favoritism or antagonism that would make fair judgment impossible.

HOLDINGS

1. The Nevada Supreme Court may exercise its discretion to entertain the writ petition because it presents an issue of first impression with statewide importance and clarification would promote judicial economy.
2. When alleged judicial bias arises from the judge's exercise of judicial duties rather than an extrajudicial source, the Kirksey standard governs: the party seeking disqualification must show that the judge formed an opinion displaying deep-seated favoritism or antagonism that would make fair judgment impossible.
3. Judge Sturman was not shown to be disqualified because the record contained no evidence that her review of the notes caused her to form an opinion displaying deep-seated favoritism or antagonism against either party.

KEY QUOTATIONS

“Therefore, we conclude that what a judge learns during the course of performing judicial duties generally does not warrant disqualification unless the judge forms an opinion that “displays ‘a deep-seated favoritism or antagonism that would make fair judgment impossible.’” (2022 NV 12, at 10)

“When the alleged bias or question of partiality arises from a judge's exercise of her duties, the party seeking the judge's disqualification must show that the judge has formed an opinion displaying deep-seated favoritism or antagonism toward the party that would prevent fair judgment.” (2022 NV 12, at 11)

FACTUAL BACKGROUND

Scott Canarelli, a trust beneficiary, sought an accounting and information concerning a proposed sale of trust-owned business interests. During discovery, the former trustees inadvertently produced attorney notes prepared by Edward Lubbers, and the district court reviewed the notes while resolving the parties' privilege objections. The Nevada Supreme Court later held the notes privileged and undiscoverable. The former trustees then sought Judge Sturman's disqualification, asserting that her review of the privileged material created an appearance of partiality.

PROCEDURAL HISTORY

During discovery in a trust dispute, the district court reviewed notes later held privileged and undiscoverable by the Nevada Supreme Court in *Canarelli I*. The former trustees then moved to disqualify Judge Gloria J. Sturman based on her review of the notes. The chief judge granted disqualification under Nevada Code of Judicial Conduct Rule 2.11(A), and Scott Canarelli petitioned for writ relief. The Nevada Supreme Court granted the petition and directed reinstatement of Judge Sturman.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The clerk of the Nevada Supreme Court was directed to issue a writ of mandamus instructing the chief judge to reinstate Judge Gloria J. Sturman as the presiding judge in the underlying matter.

CASES CITED

- *Canarelli v. Eighth Judicial District Court*, 136 Nev. 247, 464 P.3d 114 (2020)
- *Cote H. v. Eighth Judicial District Court*, 124 Nev. 36, 175 P.3d 906 (2008)
- *Smith v. Eighth Judicial District Court*, 107 Nev. 674, 818 P.2d 849 (1991)
- *Helfstein v. Eighth Judicial District Court*, 131 Nev. 909, 362 P.3d 91 (2015)
- *Humboldt General Hospital v. Sixth Judicial District Court*, 132 Nev. 544, 376 P.3d 167 (2016)
- *Millen v. Eighth Judicial District Court*, 122 Nev. 1245, 148 P.3d 694 (2006)
- *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009)
- *Romano v. Romano*, 138 Nev., Advance Opinion 1, 501 P.3d 980 (2022)
- *PETA v. Bobby Berosini, Ltd.*, 111 Nev. 431, 894 P.2d 337 (1995)
- *Towbin Dodge, LLC v. Eighth Judicial District Court*, 121 Nev. 251, 112 P.3d 1063 (2005)
- *Cannizzaro v. First Judicial District Court*, 136 Nev. 315, 466 P.3d 529 (2020)
- *Whitehead v. Nevada Commission on Judicial Discipline*, 110 Nev. 380, 873 P.2d 946 (1994)
- *Liteky v. United States*, 510 U.S. 540 (1994)
- *Passama v. State*, 103 Nev. 212, 735 P.2d 321 (1987)
- *City of Las Vegas Downtown Redevelopment Agency v. Hecht*, 113 Nev. 644, 940 P.2d 134 (1997)
- *State, Department of Highways v. Campbell*, 80 Nev. 23, 388 P.2d 733 (1964)
- *Randell v. State*, 109 Nev. 5, 846 P.2d 278 (1993)
- *Ybarra v. State*, 127 Nev. 47, 247 P.3d 269 (2011)
- *Hogan v. Warden*, 112 Nev. 553, 916 P.2d 805 (1996)
- *Goldman v. Bryan*, 104 Nev. 644, 764 P.2d 1296 (1988)
- *Allum v. Valley Bank of Nevada*, 112 Nev. 591, 915 P.2d 895 (1996)