

SUPREME COURT OF NEVADA

Lyft, Inc. v. Eighth Judicial District Court (Davis)

2021 NV 86 · No. 82148 · Decided December 30, 2021

SUMMARY

The Nevada Supreme Court considered whether NRS 52.380, governing observers and recordings during discovery examinations, conflicted with NRCP 35. The court held that the statute was procedural, attempted to abrogate a preexisting court rule, and therefore violated the separation of powers doctrine. The court granted Lyft's petition for a writ of mandamus and directed the district court to vacate its order and proceed under NRCP 35.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Parraguirre, J.; Hardesty, C.J.; Stiglich, J.; Cadish, J.; Silver, J.; Herndon, J.
JURISDICTION	Nevada
DECIDED	December 30, 2021
DOCKET	82148
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Lyft filed an original petition for a writ of mandamus challenging the district court's order overruling Lyft's objection to a discovery commissioner's recommendation that examinations of Kalena Davis's mental and physical condition proceed under NRS 52.380 rather than NRCP 35.
STANDARD OF REVIEW	The constitutionality of a statute is reviewed de novo, including in a writ proceeding. A writ of mandamus is discretionary and is appropriate when the district court has manifestly abused its discretion. A clearly erroneous interpretation or application of law constitutes an abuse of discretion.
PRECEDENTIAL VALUE	Published en banc Nevada Supreme Court decision; precedential.
PARTIES	Lyft, Inc. v. Eighth Judicial District Court of the State of Nevada, in and for the County of Clark, Honorable Mark R. Denton, District Judge

TOPICS

discovery dispute separation of powers constitutional law appellate procedure statutory interpretation

PRACTICE AREAS

civil procedure constitutional law appellate procedure statutory interpretation remedies

QUESTIONS PRESENTED

1. Whether NRS 52.380 irreconcilably conflicts with NRCP 35.
2. Whether NRS 52.380 is a procedural statute that attempts to abrogate a preexisting court rule and therefore violates Nevada's separation of powers doctrine.
3. Whether the district court manifestly abused its discretion by ordering the examinations to proceed under NRS 52.380.
4. Whether the Supreme Court should direct the district court to require that the examinations proceed without Davis's attorney present or without audio recording.

HOLDINGS

1. NRS 52.380 irreconcilably conflicts with NRCP 35 because it automatically permits an observer, including the examinee's attorney, to attend examinations and permits audio or stenographic recording without the good-cause requirements and judicial discretion imposed by NRCP 35.
2. NRS 52.380 violates the separation of powers doctrine because it is a procedural statute that attempts to abrogate NRCP 35, a preexisting procedural rule promulgated by the judiciary under its inherent authority to regulate court procedure.
3. Mandamus relief was warranted because the district court manifestly abused its discretion by applying an unconstitutional statute instead of NRCP 35.
4. The Supreme Court would not direct the district court to order that the examinations proceed without an observer or audio recording because the record did not establish whether Davis failed to show good cause for those conditions.

KEY QUOTATIONS

“The judiciary has the power to regulate court procedure, and the Legislature may not enact a procedural statute that would abrogate a preexisting court rule.” (at 2)

“Thus, we hold that NRS 52.380 violates the separation of powers doctrine.” (at 2)

“Accordingly, we hold that NRS 52.380 is unconstitutional because it attempts to abrogate an existing rule of procedure that this court prescribed under its inherent authority to regulate the judicial process.” (at 13)

FACTUAL BACKGROUND

A vehicle providing services through Lyft's ridesharing network collided with Kalena Davis, who was riding a motorcycle, seriously injuring Davis. Davis sued Lyft for negligence and claimed \$11.8 million in damages. Lyft

disputed liability and retained three experts to contest the amount of damages, then sought physical and mental examinations of Davis. The dispute concerned whether the examinations would be governed by NRCP 35, which limits observers and recordings absent good cause, or NRS 52.380, which permits an attorney to attend and make an audio recording.

PROCEDURAL HISTORY

Davis sued Lyft for negligence after a vehicle providing services through Lyft's network collided with Davis's motorcycle. Lyft moved under NRCP 35 to compel physical and mental examinations, and the discovery commissioner found good cause for the examinations. After supplemental briefing concerning conflicts between NRCP 35 and NRS 52.380, the commissioner recommended allowing Davis's attorney to attend and record the examinations under the statute. The district court summarily affirmed and adopted the recommendation, prompting Lyft's mandamus petition.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The district court must vacate its order overruling Lyft's objection to the discovery commissioner's report and recommendation and reconsider the parties' motions consistent with NRCP 35. The Supreme Court declined to direct the district court in advance to prohibit an observer or audio recording because the record did not establish whether good cause existed.

CASES CITED

- Davis v. Eighth Judicial Dist. Court, 129 Nev. 116, 118, 294 P.3d 415, 417 (2013)
- Archon Corp. v. Eighth Judicial Dist. Court, 133 Nev. 816, 819-823, 407 P.3d 702, 706-08 (2017)
- Schlagenhauf v. Holder, 379 U.S. 104, 110, 113, 118 (1964)
- Walker v. Second Judicial Dist. Court, 136 Nev., Adv. Op. 80, 476 P.3d 1194, 1199 (2020)
- Comm'n on Ethics v. Hardy, 125 Nev. 285, 292, 212 P.3d 1098, 1103 (2009)
- Tam v. Eighth Judicial Dist. Court, 131 Nev. 792, 796, 358 P.3d 234, 237-38 (2015)
- State v. Second Judicial Dist. Court (Marshall), 116 Nev. 953, 963, 11 P.3d 1209, 1215 (2000)
- Hefetz, 133 Nev. at 330 n.5, 397 P.3d at 478 n.5
- Seisinger v. Siebel, 203 P.3d 483, 489 (Ariz. 2009)
- State v. Connery, 99 Nev. 342, 345, 661 P.2d 1298, 1300 (1983)
- Whitlock v. Salmon, 104 Nev. 24, 25-28, 752 P.2d 210, 211-13 (1988)
- Vanguard Piping Sys., Inc. v. Eighth Judicial Dist. Court, 129 Nev. 602, 607, 309 P.3d 1017, 1020 (2013)
- Azar v. Allina Health Servs., 139 S. Ct. 1804, 1811 (2019)
- Sibbach v. Wilson & Co., 312 U.S. 1, 14 (1941)
- Freteluco v. Smith's Food & Drug Ctrs., Inc., 336 F.R.D. 198, 203 (D. Nev. 2020)

- *Mendoza-Lobos v. State*, 125 Nev. 634, 641-42, 218 P.3d 501, 506 (2009)
- *Scarbo v. Eighth Judicial Dist. Court*, 125 Nev. 118, 121, 206 P.3d 975, 977 (2009)
- *State v. Eighth Judicial Dist. Court (Armstrong)*, 127 Nev. 927, 932, 267 P.3d 777, 780 (2011)
- *Steward v. McDonald*, 958 S.W.2d 297, 300 (Ark. 1997)
- *Ryan's Express Transp. Servs., Inc. v. Amador Stage Lines, Inc.*, 128 Nev. 289, 299, 279 P.3d 166, 172 (2012)
- *Erie R.R. Co. v. Tompkins*, 304 U.S. 64, 78 (1938)

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