

SUPREME COURT OF NEVADA

Bob Allyn Masonry v. Murphy, 124 Nev. 279

183 P.3d 126 (2008) · No. No. 48041 · Decided May 8, 2008

SUMMARY

The Supreme Court of Nevada addressed whether an employee injured in an automobile accident while returning from a special errand for his employer was entitled to workers' compensation benefits. The court adopted the actual street-risk rule and held that the special errand exception to the going-and-coming rule includes the return journey. The court reversed and remanded because factual questions remained regarding whether the injuries arose from a risk of employment and whether the employee had resumed a solely personal journey.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Hardesty, J.; Parraguirre, J.; Douglas, J.
JURISDICTION	Nevada
DECIDED	May 8, 2008
DOCKET	No. 48041
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a district court order granting judicial review and reversing an appeals officer's denial of workers' compensation benefits.
STANDARD OF REVIEW	The Supreme Court's role is identical to the district court's: it reviews the agency record to determine whether the agency decision was arbitrary or capricious and an abuse of discretion, may not substitute its judgment on factual weight, and reviews questions of law de novo.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; binding Nevada precedent.
PARTIES	Bob Allyn Masonry, S & C Claims Services, Inc. v. David Murphy

TOPICS

- workers compensation
- appellate procedure
- standard of review
- administrative law
- construction law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether an employee required to drive on public streets to perform an employment duty may establish that an injury arising from a roadway risk arose out of employment.
2. Whether the special-errand exception to the going-and-coming rule includes the employee's return journey after completing the employer's errand.
3. Whether factual issues remained regarding whether Murphy was still returning from the special errand when the accident occurred and whether his injuries were caused by a risk inherent in roadway travel.

HOLDINGS

1. Nevada adopts the actual street-risk rule: when an employee is required to use public streets and highways to carry out employment obligations, the risks of those streets and highways become risks of employment, and an injury caused by an actual roadway risk arises out of employment.
2. The special-errand exception to Nevada's going-and-coming rule encompasses both travel to perform the special errand and the return journey from that errand.
3. Murphy was not established as entitled to benefits on the existing record because factual questions remained concerning both whether his injuries were caused by an employment-related roadway risk and whether he was still returning from the special errand or had resumed a solely personal journey.

KEY QUOTATIONS

“When an employee is required to use the streets and highways to carry out his employment obligations, the risks of those streets and highways are thereby converted to risks of employment.” (130)

“We now clarify that just as injuries sustained while traveling to perform a special errand arise in the course of employment, so too do injuries sustained when returning from the performance of the special errand.” (132)

“To obtain workers' compensation benefits, Murphy must establish a causal connection between his injuries and the risks of his employment, i.e., the risks of the street that Murphy's employment caused him to face.” (133)

FACTUAL BACKGROUND

Murphy, a grout pump operator, was asked to deliver equipment from his employer's construction yard to a job site on a Saturday when he was not scheduled to work. After delivering the equipment, he began driving toward a personal side job and was seriously injured in an automobile accident approximately two miles from the job site. The claims administrator and appeals officer denied benefits, concluding that the accident occurred after the special errand ended.

PROCEDURAL HISTORY

The workers' compensation claims administrator denied Murphy's claim after he was injured in an automobile accident following delivery of employer equipment. The appeals officer affirmed the denial. On judicial review, the district court initially remanded for clarification regarding the special-errand exception, then reversed the appeals officer after clarification and held that Murphy was entitled to compensation. The Supreme Court of Nevada reversed the district court and remanded for further remand to the appeals officer.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must remand the matter to the appeals officer. The appeals officer must determine whether Murphy established a causal connection between his injuries and risks incident to his employment, and when Murphy ceased performing the special errand and resumed a journey solely personal in nature, considering the totality of the circumstances and the location of the accident.

CASES CITED

- Mitchell v. Clark County Sch. Dist., 121 Nev. 179, 111 P.3d 1104 (2005)
- Rio Suite Hotel & Casino v. Gorsky, 113 Nev. 600, 939 P.2d 1043 (1997)
- Weaver v. State Dep't of Motor Vehicles, 121 Nev. 494, 117 P.3d 193 (2005)
- United Exposition Service Co. v. SIIS, 109 Nev. 421, 851 P.2d 423 (1993)
- MGM Mirage v. Cotton, 121 Nev. 396, 116 P.3d 56 (2005)
- Larke v. John Hancock Mut. Life Ins. Co., 90 Conn. 303, 97 A. 320 (1916)
- Thornton v. Hartford Accident & Indemnity Co., 198 Ga. 786, 32 S.E.2d 816 (1945)
- Bachman v. Waterman, 68 Ind. App. 580, 121 N.E. 8 (1918)
- Kuharski v. Bristol Brass Corp., 132 Conn. 563, 46 A.2d 11 (1946)
- Beaudry v. Watkins, 191 Mich. 445, 158 N.W. 16 (1916)
- Marketing Profiles, Inc. v. Hill, 15 Va. App. 567, 425 S.E.2d 546 (1993)
- Sentara Leigh Hosp. v. Nichols, 13 Va. App. 630, 414 S.E.2d 426 (1992)
- National Convenience Stores v. Fantauzzi, 94 Nev. 655, 584 P.2d 689 (1978)
- Tighe v. Las Vegas Metro. Police Dep't, 110 Nev. 632, 877 P.2d 1032 (1994)
- Crank v. Nev. Indus. Comm'n, 100 Nev. 80, 675 P.2d 413 (1984)
- D & C Builders v. Cullinane, 98 Nev. 67, 639 P.2d 544 (1982)
- Bengston v. Greening, 230 Minn. 139, 41 N.W.2d 185 (1950)
- Cochran Electric Co. v. Mahoney, 129 Wash. App. 687, 121 P.3d 747 (2005)
- Belnap v. Boeing Co., 64 Wash. App. 212, 823 P.2d 528 (1992)