

SUPREME COURT OF NEVADA

Scott v. First Jud. Dist. Ct.

2015 NV 101 (Nev. 2015) · No. 67331 · Decided December 31, 2015

SUMMARY

The Nevada Supreme Court considered a facial challenge to Carson City Municipal Code 8.04.050(1), which prohibited hindering, obstructing, resisting, delaying, molesting, or threatening such conduct toward city officers or sheriff's personnel. The court held that the ordinance was unconstitutionally overbroad because it criminalized protected speech and unconstitutionally vague because it lacked sufficient enforcement standards. The court granted the writ of certiorari, directed the district court to vacate its order, and remanded for reversal of Scott's conviction in part; a separate opinion concurred in part and dissented in part.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Gibbons, J.; Parraguirre, J.; Saitta, J.
JURISDICTION	Nevada
DECIDED	December 31, 2015
DOCKET	67331
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original petition for a writ of certiorari challenging the constitutionality of Carson City Municipal Code 8.04.050(1).
STANDARD OF REVIEW	De novo review of the constitutionality of a statute or ordinance.
PRECEDENTIAL VALUE	Published, precedential Nevada Supreme Court en banc opinion.
PARTIES	William Allen Scott v. The First Judicial District Court of the State of Nevada, in and for the County of Carson City, Honorable James Todd Russell, District Judge

TOPICS

- overbreadth doctrine
- void for vagueness
- free speech
- first amendment
- writ of certiorari

PRACTICE AREAS

- constitutional law
- municipal law
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether Carson City Municipal Code 8.04.050(1), which criminalizes hindering, obstructing, resisting, delaying, molesting, or threatening to do so to a city officer or sheriff's-office member, is facially overbroad under the First Amendment.
2. Whether Carson City Municipal Code 8.04.050(1) is facially vague under the Due Process Clause of the Fourteenth Amendment because it fails to provide sufficient enforcement standards and permits arbitrary and discriminatory arrests.

HOLDINGS

1. Carson City Municipal Code 8.04.050(1) is facially unconstitutionally overbroad because it reaches protected speech, including verbal criticism and challenges directed at police officers, without limiting its application to fighting words or other constitutionally unprotected expression.
2. Carson City Municipal Code 8.04.050(1) is facially unconstitutionally vague because it lacks sufficient standards and gives sheriff's deputies unfettered discretion to determine what speech or conduct hinders, obstructs, resists, delays, or molests an officer.

KEY QUOTATIONS

"In sum, CCMC 8.04.050(1) encompasses protected speech and "is not narrowly tailored to prohibit only disorderly conduct or fighting words." (7)

"Consequently, we conclude that CCMC 8.04.050(1) is unconstitutionally vague because it lacks sufficient guidelines and gives the sheriff too much discretion in its enforcement." (11)

FACTUAL BACKGROUND

At approximately 4:15 a.m., a Carson City sheriff's deputy stopped a vehicle for running a stop sign and smelled alcohol while questioning the driver. Scott, a passenger, repeatedly interrupted the deputy, told the driver not to do what the deputy said, and stated that his father was a lawyer who knew about the law. After a third interruption, the deputy ordered Scott from the vehicle and arrested him for obstructing and delaying a peace officer; Scott cooperated during the arrest.

PROCEDURAL HISTORY

Scott was arrested and convicted in Carson City Justice Court for obstructing a public officer under Carson City Municipal Code 8.04.050. The district court affirmed his conviction after rejecting his facial overbreadth and vagueness challenges. The Nevada Supreme Court granted Scott's original petition for a writ of certiorari, held the ordinance facially unconstitutional, directed the district court to vacate its order, and remanded for reversal of the conviction in part and further proceedings regarding the remainder of the ordinance.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The clerk was directed to issue a writ of certiorari instructing the district court to vacate its order denying Scott's appeal. The district court was further instructed to enter an order reversing Scott's conviction in part on the ground that Carson City Municipal Code 8.04.050(1) is facially unconstitutional and to determine whether Scott may properly be charged under the remainder of the municipal code.

CASES CITED

- Flamingo Paradise Gaming, LLC v. Chanos, 125 Nev. 502, 217 P.3d 546 (2009)
- N. Nev. Co. v. Menicucci, 96 Nev. 533, 611 P.2d 1068 (1980)
- Silvar v. Eighth Judicial Dist. Court, 122 Nev. 289, 129 P.3d 682 (2006)
- Colten v. Kentucky, 407 U.S. 104 (1972)
- City of Houston, Tex. v. Hill, 482 U.S. 451 (1987)
- State v. Castaneda, 126 Nev. 478, 245 P.3d 550 (2010)
- Holder v. Humanitarian Law Project, 561 U.S. 1 (2010)
- United States v. Reese, 92 U.S. 214 (1876)
- City of Las Vegas v. Eighth Judicial Dist. Court, 118 Nev. 859, 59 P.3d 477 (2002)
- MGM Mirage v. Nev. Ins. Guar. Ass'n, 125 Nev. 223, 209 P.3d 766 (2009)
- Star Ins. Co. v. Neighbors, 122 Nev. 773, 138 P.3d 507 (2006)
- Panama Ref. Co. v. Ryan, 293 U.S. 388 (1935)
- State v. Bower, 725 N.W.2d 435 (Iowa 2006)
- Chaplinsky v. New Hampshire, 315 U.S. 568 (1942)

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