

SUPREME COURT OF NEVADA

Hohenstein v. State, Employment Security Division

Hohenstein v. State, Emp't Sec. Div., 2015 NV 17 (Nev. 2015) · No. 58519 · Decided April 2, 2015

SUMMARY

The Nevada Supreme Court held that a guilty plea entered under NRS 453.3363 could not be used during the probationary period to establish misconduct-based grounds for denying unemployment benefits. Because the employer and Employment Security Division treated the plea as a felony conviction, the denial of benefits lacked substantial evidentiary support. The court reversed the district court and remanded for further proceedings without considering the guilty plea.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Pickering, J.; Parraguire, J.; Saitta, J.
JURISDICTION	Nevada
DECIDED	April 2, 2015
DOCKET	58519
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a district court order denying judicial review of an administrative decision denying unemployment benefits.
STANDARD OF REVIEW	The court deferentially reviews the ESD's factual findings, including misconduct findings, but requires those findings to be supported by substantial evidence.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential.
PARTIES	Clinton Hohenstein v. Nevada Employment Security Division, Cynthia Jones, in her capacity as Administrator of the Nevada Employment Security Division, Katie Johnson, in her capacity as Chairwoman of the Nevada Employment Security Division Board of Review, Washoe County School District

TOPICS

- unemployment benefits
- judicial review of agency action
- administrative law
- statutory interpretation
- appellate procedure

PRACTICE AREAS

employment law

unemployment benefits

administrative law

statutory interpretation

QUESTIONS PRESENTED

1. Whether a guilty plea entered under NRS 453.3363 may be used during the probationary period to establish misconduct and deny unemployment benefits when the offender has not yet completed probation.
2. Whether the ESD's finding that Hohenstein was terminated for disqualifying misconduct connected with his work was supported by substantial evidence.

HOLDINGS

1. A guilty plea entered pursuant to NRS 453.3363 may not be used during the probationary period to establish misconduct-based grounds for termination for purposes of denying unemployment compensation.
2. The ESD's decision denying benefits could not be upheld because its finding that Hohenstein was terminated for misconduct connected with his work relied on a felony conviction that did not exist and lacked substantial evidentiary support.

KEY QUOTATIONS

"We therefore adopt the reasoning and interpretation offered in Tate and hold that, since NRS 453.3363(4) forestalls a final judgment of conviction "for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose" if the offender successfully completes probation, the guilty plea may not be used to establish misconduct-based grounds for termination for purposes of denying unemployment compensation during the probationary period." (7)

"We therefore reverse the district court's order denying judicial review and remand with instructions that the district court remand to the ESD to determine, without considering Hohenstein's guilty plea, whether the WCSD met its burden to demonstrate that Hohenstein committed disqualifying misconduct under NRS 612.385 for which he was terminated." (10)

FACTUAL BACKGROUND

Clinton Hohenstein, a Washoe County School District teacher, pleaded guilty to possessing marijuana under NRS 453.336. Because it was his first offense, the criminal court suspended proceedings and placed him on probation under NRS 453.3363, allowing dismissal and discharge without a conviction upon successful completion. The school district terminated Hohenstein based in substantial part on the guilty plea, and the Employment Security Division denied unemployment benefits on the ground that the plea established misconduct connected with his work.

PROCEDURAL HISTORY

The Nevada Employment Security Division denied Hohenstein unemployment benefits after finding that his guilty plea established workplace misconduct supporting his termination. Hohenstein unsuccessfully petitioned

the district court for judicial review and appealed to the Nevada Supreme Court. The Supreme Court reversed the district court and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must remand the matter to the ESD to determine, without considering Hohenstein's guilty plea, whether the Washoe County School District met its burden to demonstrate that Hohenstein committed disqualifying misconduct under NRS 612.385 for which he was terminated.

CASES CITED

- Taylor v. Thunder, 116 Nev. 968, 13 P.3d 43 (2000)
- Tate v. Board of Education of Kent County, 485 A.2d 688 (Md. Ct. Spec. App. 1985)
- State v. Alston, 362 A.2d 545 (N.J. 1976)
- Ybarra v. State, 97 Nev. 247, 628 P.2d 297 (1981)
- Clark Cnty. Sch. Dist. v. Bundley, 122 Nev. 1440, 148 P.3d 750 (2006)
- Clevenger v. Nev. Emp't Sec. Dep't, 105 Nev. 145, 770 P.2d 866 (1989)
- Kolnik v. Nev. Emp't Sec. Dep't, 112 Nev. 11, 908 P.2d 726 (1996)
- Garman v. State Emp't Sec. Dep't, 102 Nev. 563, 729 P.2d 1335 (1986)