

SUPREME COURT OF NEVADA

Las Vegas Metropolitan Police Department v. Blackjack Bonding, Inc.

131 Nev., Advance Opinion 10 (2015) · No. Nos. 62864 and 63541 · Decided March 5, 2015

SUMMARY

The Nevada Supreme Court held that inmate telephone call records generated by a private telecommunications provider under contract with a governmental detention facility were public records subject to disclosure under the Nevada Public Records Act. The court concluded that the records concerned the provision of a public service and were within the Las Vegas Metropolitan Police Department's legal control, and that redaction addressed privacy concerns. The court also held that Blackjack Bonding was a prevailing party entitled to reasonable attorney fees and costs, reversed the denial of those fees and costs, and remanded.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Saitta, J.; Parraguirre, J.; Pickering, J.
JURISDICTION	Nevada
DECIDED	March 5, 2015
DOCKET	Nos. 62864 and 63541
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Consolidated appeals from a district court order granting in part a writ of mandamus compelling compliance with a public-records request and a post-judgment order denying the requester's motion for attorney fees and costs.
STANDARD OF REVIEW	The grant or denial of a writ petition and an award of attorney fees or costs are reviewed for abuse of discretion; interpretation of caselaw and statutory language is reviewed de novo.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential
PARTIES	Las Vegas Metropolitan Police Department, Douglas C. Gillespie, Blackjack Bonding, Inc. v. Blackjack Bonding, Inc., Las Vegas Metropolitan Police Department, Douglas C. Gillespie

TOPICS

statutory interpretation

administrative law

municipal law

writ of certiorari

appellate procedure

PRACTICE AREAS

public records

administrative law

municipal law

appellate procedure

attorney fees

QUESTIONS PRESENTED

1. Whether inmate telephone call-detail records generated by a private provider under contract with a governmental entity are public records relating to the provision of a public service under the Nevada Public Records Act.
2. Whether the records were within LVMPD's legal custody or control and whether the Nevada Public Records Act required LVMPD to obtain and disclose readily compilable information from CenturyLink.
3. Whether privacy and production-burden concerns defeated disclosure under the balancing-of-competing-interests test.
4. Whether Blackjack was a prevailing requester entitled to reasonable attorney fees and costs under NRS 239.011 despite being required to pay the costs of producing the records.

HOLDINGS

1. The requested inmate telephone call-detail information was a public record because it related to the provision of a public service by a private entity on behalf of a governmental entity.
2. LVMPD had legal control over the requested records and was required to obtain and disclose them because CenturyLink's system could readily generate the information.
3. Blackjack was a prevailing requester entitled to recover reasonable attorney fees and costs under NRS 239.011, even though it was required to pay the agency's costs of producing the records.

KEY QUOTATIONS

“We hold that this information is a public record because it concerns the provision of a public service and is within the agency's legal control.” (2)

“We also hold that the requester was a prevailing party and thus entitled to recover attorney fees and costs pursuant to NRS 239.011.” (2)

“Therefore, the balancing-of-competing-interests test does not preclude its duty to produce the requested information.” (10)

“Blackjack was a prevailing party and is entitled to recover attorney fees and costs associated with its efforts to secure access to the telephone records, despite the fact that it was to pay the costs of production.” (13)

FACTUAL BACKGROUND

Clark County contracted with CenturyLink to provide inmate telephone services at the Clark County Detention Center and to generate call-detail records for administrative and investigative purposes. Blackjack Bonding

requested records concerning inmate calls to telephone numbers appearing on bail-bond-agent lists, later agreeing that inmate names and identification numbers could be redacted. Although LVMPD claimed it did not possess the records, the contract, CenturyLink's prior production of similar data, and LVMPD's admission established that CenturyLink could readily generate the information and that LVMPD had legal control over it.

PROCEDURAL HISTORY

Blackjack Bonding requested inmate telephone call records from LVMPD under the Nevada Public Records Act. After LVMPD denied the request, Blackjack petitioned for a writ of mandamus. The district court ordered LVMPD to produce most of the requested records, with inmate names and identification numbers redacted, and required Blackjack to pay production costs, but denied Blackjack's motion for attorney fees and costs. LVMPD appealed the writ order, and Blackjack appealed the fee denial; the appeals were consolidated.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Affirm the district court's partial writ relief, reverse the order denying Blackjack's motion for attorney fees and costs, and remand for the district court to enter an award of reasonable attorney fees and costs consistent with the opinion.

CASES CITED

- Public Employees' Retirement System v. Reno Newspapers, Inc., 129 Nev. , 313 P.3d 221 (2013)
- DR Partners v. Board of County Commissioners, 116 Nev. 616, 621, 6 P.3d 465, 468 (2000)
- Liu v. Christopher Homes, LLC, 130 Nev. , 321 P.3d 875, 877-80 (2014)
- Reno Newspapers, Inc. v. Haley, 126 Nev. 211, 214, 234 P.3d 922, 924 (2010)
- V & S Ry., LLC v. White Pine County, 125 Nev. 233, 239-40, 211 P.3d 879, 883 (2009)
- State ex rel. Scanlon v. Deters, 544 N.E.2d 680, 683 (Ohio 1989)
- State ex rel. Steckman v. Jackson, 639 N.E.2d 83, 89 (Ohio 1994)
- Reno Newspapers, Inc. v. Gibbons, 127 Nev. , 266 P.3d 623, 627 (2011)
- Albios v. Horizon Communities, Inc., 122 Nev. 409, 417, 132 P.3d 1022, 1027-28 (2006)
- Village Builders 96, L.P. v. U.S. Laboratories, Inc., 121 Nev. 261, 276, 112 P.3d 1082, 1092 (2005)
- NOLM, LLC v. County of Clark, 120 Nev. 736, 739, 100 P.3d 658, 660-61 (2004)
- Bergmann v. Boyce, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993)
- Valley Electric Ass'n v. Overfield, 121 Nev. 7, 10, 106 P.3d 1198, 1200 (2005)
- Hensley v. Eckerhart, 461 U.S. 424, 434 (1983)
- Williams v. United Parcel Services, 129 Nev. , 302 P.3d 1144, 1147 (2013)

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