

SUPREME COURT OF NEVADA

State v. Second Judicial District Court of the State of Nevada, 118 Nev. 609

55 P.3d 420 (2002) · No. No. 38543 · Decided October 16, 2002

SUMMARY

The Supreme Court of Nevada considered whether state child protective services employees were entitled to absolute quasi-judicial immunity from negligence claims arising from the selection and supervision of foster care for a medically fragile child. The court held that such immunity applies to recommendations and information provided to the court but not to the agency's subsequent day-to-day management and care of the child. The court denied the petition for writ of mandamus or prohibition and upheld the district court's refusal to dismiss the claims on quasi-judicial-immunity grounds.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Shearing, J.; Rose, J.; Becker, J.
JURISDICTION	Nevada
DECIDED	October 16, 2002
DOCKET	No. 38543
DISPOSITION	writ_denied
PROCEDURAL POSTURE	The petitioners sought a writ of mandamus or, alternatively, a writ of prohibition compelling the district court to dismiss negligence claims against them on the ground of absolute quasi-judicial immunity. The Nevada Supreme Court reviewed the district court's refusal to dismiss the claims.
STANDARD OF REVIEW	Whether to entertain a mandamus petition is within the Supreme Court's discretion. Mandamus is generally available to compel performance of a legally required duty or control an arbitrary or capricious exercise of discretion, but ordinarily will not issue when the petitioner has a plain, speedy, and adequate legal remedy. The court reviewed the immunity issue to clarify an important question of law.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES

State of Nevada, Edward Paige, Nancy Gammie, Arnold Sierra, Collette Lancaster, Scott Lancaster, Monty Loper, Shala Loper, John Brown, Jane Brown v. Second Judicial District Court of the State of Nevada, in and for the County of Washoe, Honorable Steven R. Kosach, District Judge

TOPICS

writ of certiorari appellate procedure motion for judgment on the pleadings summary judgment
civil procedure

PRACTICE AREAS

civil procedure appellate procedure torts remedies administrative law

QUESTIONS PRESENTED

1. Whether state child-protective-services employees are entitled to absolute quasi-judicial immunity for actions involving the evaluation and recommendation of a child's placement and medical needs.
2. Whether absolute quasi-judicial immunity extends to the day-to-day management and care of a child after a court has ratified the agency's recommendations.
3. Whether the district court should be compelled by mandamus or prohibition to dismiss the negligence claims on immunity grounds.

HOLDINGS

1. State agencies and employees engaged in child protective services are entitled to absolute quasi-judicial immunity when they provide the court with reports, case plans, testing evaluations, recommendations, or comparable decision-making expertise concerning a child who is or may become a ward of the State.
2. Absolute quasi-judicial immunity does not apply to state agencies or employees for the day-to-day management and care of children in their custody after the court has made a decision ratifying the agency's recommendations.
3. The petition for a writ of mandamus or, alternatively, a writ of prohibition was denied because the petitioners were not entitled to quasi-judicial immunity for the challenged conduct and the district court did not err in refusing to dismiss the claims.

KEY QUOTATIONS

"However, once the court makes a decision ratifying the recommendations of the state agency (e.g., placement in foster care, need for further medical evaluation, etc.), the state agency and its employees are no longer acting as an arm of the court." (426-427)

"Specifically, quasi-judicial immunity does not apply to state agencies or their employees for the day-to-day management and care of their wards." (427)

FACTUAL BACKGROUND

Azeria Ducharm, a fourteen-month-old child with serious and permanent medical conditions, was removed from her biological parents and placed in licensed therapeutic foster care under the State's protective-services system. Her foster parents later entrusted her care to a fifteen-year-old babysitter, while Azeria was in the babysitter's care, she choked on a hot dog and died. The negligence claims challenged the State employees' evaluation, placement, communication, medical follow-up, and supervision of Azeria after her placement in foster care.

PROCEDURAL HISTORY

Monique Ducharm filed negligence claims arising from the death of Azeria Ducharm against the State, state employees, foster parents, and the babysitter's parents. The State defendants moved for judgment on the pleadings under NRCP 12(c), but because the district court considered matters outside the pleadings, the motion was treated as one for summary judgment. The district court dismissed a claim concerning the absence of special-needs policies but denied dismissal of the remaining claims based on quasi-judicial immunity. The Supreme Court of Nevada denied the petition for mandamus or prohibition.

DISPOSITION

writ_denied

CASES CITED

- *Lumbermen's Underwriting v. RCR Plumbing*, 114 Nev. 1231, 969 P.2d 301 (1998)
- *Smith v. District Court*, 107 Nev. 674, 818 P.2d 849 (1991)
- *Wardleigh v. District Court*, 111 Nev. 345, 891 P.2d 1180 (1995)
- *Round Hill General Improvement District v. Newman*, 97 Nev. 601, 637 P.2d 534 (1981)
- *Smith v. District Court*, 113 Nev. 1343, 950 P.2d 280 (1997)
- *Ashokan v. State, Department of Insurance*, 109 Nev. 662, 856 P.2d 244 (1993)
- *Imbler v. Pachtman*, 424 U.S. 409, 96 S. Ct. 984, 47 L. Ed. 2d 128 (1976)
- *Briscoe v. LaHue*, 460 U.S. 325, 103 S. Ct. 1108, 75 L. Ed. 2d 95 (1983)
- *Butz v. Economou*, 438 U.S. 478, 98 S. Ct. 2894, 57 L. Ed. 2d 895 (1978)
- *Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 113 S. Ct. 2167, 124 L. Ed. 2d 391 (1993)
- *Miller v. Gammie*, 292 F.3d 982 (9th Cir. 2002)
- *Duff v. Lewis*, 114 Nev. 564, 958 P.2d 82 (1998)
- *Foster v. Washoe County*, 114 Nev. 936, 964 P.2d 788 (1998)
- *Matter of Fine*, 116 Nev. 1001, 13 P.3d 400 (2000)
- *Simpson v. Mars, Inc.*, 113 Nev. 188, 929 P.2d 966 (1997)