

Exhibit 10

This exhibit shows that Justice's Milton Badt, Justice Edgar Eather and Justice Charles Merrill were Justices of the Nevada Supreme Court at the same time they were performing legislative function on an unconstitutional commission known as the Statute Revision Commission all in violation of the Nevada State Constitution Article 3 Section 1 "Separation of Powers"

STATE OF NEVADA, on the Relation of LIZZIE BACKER, FRED D. BACKER and WILLIAM J. BACKER, Relators, v. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, in and for the County of Clark and Honorable A. S. HENDERSON, District Judge, Respondents

Supreme Court of Nevada

70 Nev. 488; 274 P.2d 571; 1954 Nev. LEXIS 77

No. 3821

September 30, 1954

Disposition:

Writ denied.

Counsel

Guild, Busey & Guild, of Reno, for Relators.

Taylor & Gubler, and *Earl & Earl*, of Las Vegas, for Respondents.

Judges: Merrill, J. Eather, C.J., and Badt, concur.

CASE SUMMARY

PROCEDURAL POSTURE: Petitioners, the State of Nevada on relation for three individuals, applied for a writ of mandate against respondents, the Eighth Judicial District Court of the State of Nevada in and for the County of Clark and a trial judge. After the trial judge had been disqualified, relators contended that he did not properly assign the cause to another judge and sought the writ to compel a proper assignment. Relators' application for a writ of mandamus regarding the assignment of a trial judge was denied in part because the reasons for their opposition to one alternate judge did not constitute valid objections under Nevada law.

OVERVIEW: The trial judge was disqualified by the relators filing an affidavit charging that he entertained a bias or prejudice against them. The first alternative judge was also rejected by relators as being biased. The relators agreed to the second alternative judge, but he could not accept the assignment. The trial judge then asked for written objections to the first alternative judge. The relators filed a formal objection but did not explain their reasons. The trial judge ruled their objection to be insufficient and assigned the matter to the first alternative judge. The court held that: (1) the language of Nev. Comp. Laws § 8407.02 (Supp. 1931-1941), in light of § 8407, conferred upon the disqualified judge the authority and duty to determine the sufficiency of the objections urged to a proposed assignment; (2) the relators' opposition to the first alternative judge did not constitute a valid objection under § 8407; and (3) the fifth basis for disqualification in § 8407 did defer to the judgment of a litigant regarding the existence of bias and prejudice if made in good faith, but the legislative intent showed that the method of disqualification could only be used once by a party.

OUTCOME: The court denied the relators' writ application.

THEODORE GENE HINRICHS, H. DON GULOVSEN and WILLIAM ROBERT BURMAN, Petitioners, v.
THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, in and for the County of
Ormsby, and HONORABLE FRANK B. GREGORY, Presiding Judge, Respondents
Supreme Court of Nevada
71 Nev. 168; 283 P.2d 614; 1955 Nev. LEXIS 75
No. 3869
May 13, 1955

Disposition:

Denied.

Counsel

Diehl & Recanzone, of Fallon, *Homer G. Angelo*, of Carson City, and
Drendel & Dixon, of Reno, for Petitioners.

Cameron M. Batjer, District Attorney, Carson City, for
Respondents.

Judges: Badt J. Merrill, C.J., and Eather, J., concur.

CASE SUMMARY

PROCEDURAL POSTURE: Petitioner criminal defendants brought an action against respondent district court (Nevada) to prohibit the district court from proceeding with the trial of a criminal charge against the criminal defendants on the grounds that the constitutionality of the statute that defined first-degree murder. The statute that defined murder did not violate the equal protection of the laws, did not violate defendant's due process right, was not void for uncertainty or vagueness and did not provide for cruel and unusual punishment.

OVERVIEW: The criminal defendants brought an action seeking to prohibit the district court from proceeding with the trial of a criminal charge against the criminal defendants. The criminal defendants argued that the statute under which they were charged was unconstitutional because it denied them equal protection of the laws and that due process lacking due to the vagueness and uncertainty of the statute. The criminal defendants further argued that the statute was unconstitutional because it provided for cruel and unusual punishment disproportionate to the offense. The court rejected the criminal defendants' arguments. The court noted that equal protection of the law had not been violated because there was no arbitrary classification contained in the statute. Further, due process was not violated as any problem in defining the words "cause" and "causing" as used in the statute could be cleared up by appropriate instructions to the jury. Finally, the penalty provided for in the statute did not amount to cruel or unusual punishment.

OUTCOME: The court vacated the alternative writ and dismissed the criminal defendants' case.

LOUIS K. BOSWELL, Jr., Petitioner, v. BOARD OF MEDICAL EXAMINERS OF THE STATE OF
NEVADA, GEORGE ROSS, THEODORE ROSS, LESLIE MORAN, STANLEY HARDY and KENNETH
MACLEAN, Respondents
Supreme Court of Nevada
72 Nev. 20; 293 P.2d 424; 1956 Nev. LEXIS 72
No. 3913
February 1, 1956

Disposition:
Petition granted.

Counsel *Royal A. Stewart and Richard W. Horton*, of Reno, for Petitioner.
Summerfield & Heward, of Reno, for Respondents.

Judges: Badt, J. Merrill, C.J., and Eather, J., concur.

CASE SUMMARY

PROCEDURAL POSTURE: Petitioner doctor sought a writ of prohibition against respondent Board of Medical Examiners of the State of Nevada to prevent the Board from proceeding to try him on charges of unprofessional conduct pursuant to Nev. Comp. Laws § 4107.15 (Supp. 1943-1949) because of harshly critical language directed by him at the three other doctors practicing in the county and at the entire local medical profession. State Board of Medical Examiners could not proceed to try duly licensed doctor on charges of unprofessional conduct because of harshly critical language directed by him at other doctors practicing in county and at entire local medical profession.

OVERVIEW: The State Board of Medical Examiners cited the doctor to appear before it and answer charges of unprofessional conduct because of specific statements made by him. The charges specified conversations had with six persons, in which the doctor made statements reflecting upon the standard of medical practice in the county and upon nursing practices and insultingly reflecting upon the abilities of the other three doctors. The statements were made in private conversation, in large part with persons with whom the doctor was professionally associated and to whom he might be expected to express a critical professional opinion. The doctor sought a writ of prohibition to prevent the Board from proceeding to try him on the charges. The court, in granting the petition and issuing the writ, held that the statements made under the circumstances did not constitute unprofessional conduct within the purview of § 4107.15. Further, the statements, in the words and under the circumstances as charged, did not bear such a threat to the public health, safety, morals or welfare as to justify the license revocation proceeding.

OUTCOME: It was ordered that the petition be granted and that the writ issue as prayed for.

MARY M. CARRIGAN, Appellant, v. WILLIAM GEORGE ARBONIES, Respondent
Supreme Court of Nevada
73 Nev. 325; 318 P.2d 1109; 1957 Nev. LEXIS 122
No. 3991
December 9, 1957

Editorial Information: Subsequent History

Rehearing Denied January 2, 1958.

Editorial Information: Prior History

Appeal from the Second Judicial District Court, Washoe County; Wm. D. Hatton, Presiding Judge, Department No. 2.

Disposition:

Affirmed with costs.

Counsel

J. Fred Haley, of Oakland, Calif., and *Vargas, Dillon and Bartlett*, of Reno, for Appellant.

Respondent.

Woodburn, Forman, Wedge, Blakey and Thompson, of Reno, for

Judges: Eather, J. Badt, C.J., and Merrill, J., concur.

CASE SUMMARY

PROCEDURAL POSTURE: Plaintiff injury victim sought review of the judgment of the Second Judicial District Court, Washoe County (Nevada) entered on a jury verdict, which found in favor of defendant motorist in the victim's suit against the motorist for personal injuries resulting from an automobile collision. The victim contended that there was not substantial evidence to support the jury's determination that the motorist was not guilty of negligence. In an injury suit against a motorist based on an a car collision, the question of whether the motorist was negligent in failing to properly warn the driver of the victim's car that the motorist's car was blocking the highway was for the jury.

OVERVIEW: After dark one evening the motorist's car became stuck on the side of the road. In his efforts to bring the car back onto the pavement, the car skidded into such a position that the car protruded onto the highway and blocked half of a lane of traffic. While the motorist was attempting to move the car, the victim's car, driven by her husband, topped a rise about 100 yards down the highway. The driver started toward the approaching car with the intention of warning the driver; however, he realized that he would not have time to do so and returned to his car. The victim's car struck the motorist's car, and the victim sustained serious injuries. On appeal, the court found that there was room for an honest difference of opinion as to whether the motorist pursued the reasonable and prudent course and exercised the proper standard of care. Thus, the court determined that the issue of whether the motorist's conduct constituted negligence remained for the jury to determine and would not be disturbed on appeal.

OUTCOME: The court affirmed the judgment of the trial court.

RICHARD LEVINSON, Appellant, v. JOAN LEVINSON, Respondent
Supreme Court of Nevada

74 Nev. 160; 325 P.2d 771; 1958 Nev. LEXIS 108

No. 4059

May 22, 1958

Editorial Information: Prior History

Appeal from the Eighth Judicial District Court, Clark County; Grant L. Bowen, Judge presiding.

Disposition:

Affirmed.

Counsel

Jones, Wiener and Jones, of Las Vegas, for Appellant.

Hawkins and Cannon and Zenoff and Magleby, of Las Vegas, for

Respondent.

Judges: Eather, J. Badt, C.J., and Merrill, J., concur.

CASE SUMMARY

PROCEDURAL POSTURE: Appellant husband appealed a decision of the Eighth Judicial District Court, Clark County (Nevada), which made final allowance of counsel fees for appellee wife for services rendered pendente lite in an action for divorce. An order allowing wife counsel fees in divorce action was not a final determination of her right to receive fees, it was tentative and subject to further interlocutory order. Application for additional allowances was renewal of the original motion.

OVERVIEW: The wife filed a petition for divorce against her husband. She filed a motion for allowances, and after a hearing, an order for allowances was made that included \$ 600 in counsel fees. Prior to trial, the wife made a motion for additional counsel fees, and the trial court deferred action until after trial. After trial, a hearing was held relative to the motion, and testimony was admitted as to the nature and extent of legal services between the date of the original order for fees and the date of the motion for additional fees. The husband objected to the testimony, but his objection was overruled. The trial court ordered additional counsel fees of \$ 3,000, and the husband appealed, arguing that the trial court was precluded from considering services rendered prior to the motion for additional fees. The court affirmed, holding that the original order was not a final determination upon the extent of the wife's right to receive fees or her husband's obligation to pay them. The fixing of the extent of that right and obligation was tentative and subject to further interlocutory order, so the application for additional allowances was just a renewal of the original motion.

OUTCOME: The court affirmed the trial court's judgment.