



Summaries of Published Opinions: The Nevada Supreme Court and Nevada Court of Appeals

The following summaries include, in bold, a case citation along with the primary areas of practice and/or subject matter addressed in the decisions. In addition, each summary identifies significant new rules of law or issues of first impression decided by Nevada's appellate courts.

These summaries are prepared by the state bar's Appellate Litigation Section as an informational service only and should not be relied upon as an official record of action. While not all aspects of a decision can be included in these brief summaries, we hope that readers will find this information useful, and we encourage you to review full copies of the Advance Opinions, which are located on the Nevada Supreme Court's website at: https://nvcourts.gov/Supreme/Decisions/Advance_Opinions/.

***Henderson City Attorney v. Cerrone*, 140 Nev., Adv. Op. 68 (Oct. 24, 2024) – Criminal law; amendments to charging documents; appellate remedies.**

The defendant filed a writ of mandamus in the district court challenging the municipal court's decision allowing the prosecution to amend the criminal complaint. The district court abused its discretion in granting the writ because (1) defendants can directly appeal deprivation of right to jury trial; (2) a simple battery offense, without constituting domestic violence, does not include loss of right to firearms; and (3) amending charging instrument to lesser-included offense under NRS 173.095 was not a new offense and did not prejudice defendant's rights.

***Nevada Pol. Research Inst. v. Miller*, 140 Nev. Adv. Op. 69 (Oct. 31, 2024) (En banc) – Separation of powers.**

The Nevada Constitution bars a legislator from simultaneous service in another department of state government, but does not bar employment with a local government. Moreover, the Nevada System of Higher Education is not part of the executive department, so dual service does not violate separation of powers principles. Additionally, local government employees are distinguishable from employees of a state government department for separation-of-powers purposes and are not part of the state executive department.

***Martinez, Jr. v. State*, 140 Nev., Adv. Op. 70 (Nov. 7, 2024) – Criminal law; entrapment.**

The defendant was convicted of sexual offenses involving a child following a reverse sting operation. He argued that his conviction was the result of outrageous government conduct, warranting reversal. The court adopted the six-factor test outlined in *U.S. v. Black*, 733 F.3d 294 (9th Cir. 2013), which examines (1) the known characteristics of the defendants; (2) individualized suspicion of the defendants; (3) the government's role in creating the crime of conviction; (4) the government's encouragement of the defendants to commit the offense conduct; (5) the nature of the government's participation in the offense conduct; and (6) the nature of the crime being pursued and necessity for the actions taken in light of the nature of the criminal enterprise at issue.

***Pinney v. State*, 140 Nev., Adv. Op. 71 (Court of Appeals, November 21, 2024) – Criminal law; uncharged bad acts; self-defense.**

Evidence of a victim's prior violent acts offered to support a defendant's claim of self-defense is not subject to an uncharged bad act analysis under NRS 48.045(2). The Supreme Court of

Nevada has never applied NRS 48.045(2) to such evidence, and doing so would present conceptual problems.

***Dawson v. State*, 140 Nev., Adv. Op. 72 (Nov. 21, 2024) – Criminal Law; sentencing enhancements.**

Enhancement of a criminal sentence based on habitual criminal status under NRS 207.010 must be applied according to the version of the statute in effect at the time the charged crime was committed, not the one in effect at sentencing. Any conviction offered to support the enhancement, however, must predate the charged offense.

***Martinez v. Martinez*, 140 Nev., Adv. Op. 73 (November 27, 2024) (En banc) – Family law; modifying child support obligations.**

The costs of transporting a child for visitation can no longer be imposed entirely to a relocating parent, but must be part of a larger analysis of the child support adjustment factors in NAC 425.150. The court also expressly imposed a reasonableness requirement for such adjustments.

***Bourne v. Valdes*, 140 Nev., Adv. Op. No. 74 (November 27, 2024) – Medical malpractice; suicide as intervening cause.**

Nothing in Nevada's professional negligence statutes precludes a health care provider from liability for a patient's death where the patient died by suicide. Whether a health care provider caused a patient's death in cases where the patient died by suicide must be resolved under established medical malpractice principles.

***Saticoy Bay LLC Series 3580 Lost Hills v. Foreclosure Recovery Services, LLC*, 140 Nev., Adv. Op. 75 (November 27, 2024) – Redemption of real property.**

NRS 116.31166 provides homeowners and their successors in interest with the right to redeem real property within 60 days of foreclosure. Although the statute does not define "successor in interest," reading the term harmoniously with other laws that address the same subject matter, the term refers to persons, other than creditors, who are entitled to property of a decedent under the terms of a decedent's will. Thus, upon a testator's death, a will beneficiary becomes the testator's successor in interest for the purposes of NRS 116.31166.

***Malco v. Woldeyohannes*, 140 Nev., Adv. Op. 76 (December 5, 2024) (En banc) – Consumer/transportation; insurance.**

NRS 482.305 holds short-term lessors of motor vehicles who fail to provide minimum insurance coverage to lessees are jointly and severally liable for damages caused by a lessee's negligence.

The Graves Amendment prohibits states from holding vehicle lessors vicariously liable for damages caused by others without a showing of negligence or wrongdoing. However, here, the short trial judge correctly concluded that NRS 482.305 is a financial responsibility law that is preserved by the Graves Amendment's savings clause and is thus not preempted.

***In re: Matter of N.R.R. and N.I.R.*, 140 Nev. Adv. Op. 77 (Dec. 5, 2024) – Dependency law.**

A dependency court is not statutorily authorized to order the Department of Family Services to continue providing funding to foster parents for housing to facilitate their care of a child.

***Hugo v. State*, 140 Nev., Adv. Op. 78 (Dec. 19, 2024) – Factual innocence petitions; appellate remedies.**

Orders dismissing petitions to establish factual innocence without prejudice for failing to meet NRS 34.960's pleading requirements are not independently appealable.

***Alvarez v. State*, 140 Nev., Adv. Op. 79 (December 19, 2024) – Criminal law; lesser included offenses; warrants.**

A defendant cannot be convicted of a theft crime and possessing or receiving the property stolen in the commission of the same theft crime. And while NRS 179.085(1)(d) permits a person aggrieved by an unlawful search to move to suppress evidence stemming from a warrant that was illegally executed, the failure to timely return the warrant does not render its execution illegal.

***Pub. Employees' Ret. Sys. of Nev. v. Las Vegas Police Managers and Supervisors Ass'n*, 140 Nev., Adv. Op. 80 (Dec. 19, 2014) – Statutory interpretation; statutory authority.**

The Las Vegas Police Managers and Supervisors Association has statutory authority pursuant to NRS 288.150(2)(d) to negotiate paid holidays on behalf of the association. In turn, based on the plain language of NRS 286.025, PERS is required to obtain additional contributions on all paid "holiday[s]." Therefore, the district court properly granted summary judgment in favor of the Association, requiring PERS to collect employer contributions for the additional holidays identified in the Association's collective bargaining agreement.

***Smith v. State*, 140 Nev., Adv. Op. 81 (Dec. 19, 2024) – Computation of time served.**

District court correctly concluded that a prisoner could not challenge the computation of time pursuant to a judgment of conviction served by way of a writ of mandamus because the only remedy available is a petition for writ of habeas corpus.

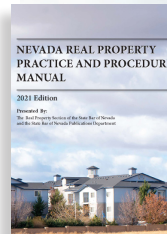
***State v. Devries*, 140 Nev., Adv. Op. 82 (Dec. 26, 2024) – Criminal law; gang enhancements.**

Evidence of conduct of non-local members of a criminal gang is relevant to whether the gang engages in common felonious activity. District court erred when it partially granted pretrial petitions for writ of habeas corpus by dismissing the gang enhancement based on insufficient evidence.

BOOKS FROM THE BAR



The State Bar of Nevada has several reference publications available to meet the needs of Nevada attorneys, from comprehensive guides to compilations of templates in a variety of practice areas.



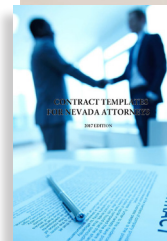
Nevada Real Property Practice and Procedure Manual - 2021 Edition



Nevada Appellate Practice Manual - 2021 Edition



Nevada Business Entities - 2022 Edition



FREE: Contract Templates for Nevada Attorneys

To see all of the current titles available, visit:
www.nvbar.org > News and Publications > Resources > Books and Manuals