

*Halverson v. Hardcastle*, 123 Nev. Adv. Op. No. 29 (July 27, 2007)<sup>1</sup>

**ADMINISTRATIVE LAW-WRIT OF QUO WARRANTO**

**Summary**

Petition granted in part and denied in part for a writ of quo warranto challenging a chief justice's authority to require another district judge to meet with a committee of judges, to remove and reassign that judge's criminal caseload, and to temporarily bar that judge from entering the courthouse.

**Disposition/ Outcome**

Chief Judge Hardcastle's actions in appointing a three-judge committee and in removing Judge Halverson's criminal cases constituted a proper exercise of her administrative authority; a writ of quo warranto is not warranted to address those issues. However, with respect to a May 10<sup>th</sup> order banning Judge Halverson from the justice center until she cooperates. Chief Judge Hardcastle overstepped her authority.

**Factual and Procedural History**

In 2006, the people of Clark County elected Elizabeth Halverson to a district court judgeship. Three months after assuming duties, Halverson asserts that in an article Judge Hardcastle, chief judge of the Eight Judicial District, commented on the judge's performance. During the next several weeks, events took place which led to the instant quo warranto proceeding.

The first event occurred when Chief Judge Hardcastle asked a three-judge panel to assist Halverson's transition on the bench after alleged reports that she met with jurors in a criminal matter outside the presence of counsel's presence and often demeaned her staff. The panel submitted reports regarding Halverson's behavior with her staff and inappropriate comments while conducting trials. The committee of judges explained to Halverson the "specifics" of her alleged improper behavior and she became "defensive." Despite Chief Judge Hardcastle's purported beneficial intentions, Judge Halverson viewed the committee's review of her and her staff as punitive.

The second event occurred when Chief Judge Hardcastle reassigned Halverson's criminal caseload to other incoming judges, each of whom had extensive experience in criminal law, and gave Halverson a "civil-only" caseload. While Halverson "was initially receptive" to the reassignment, she later protested arguing that the change was punitive.

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The third event occurred when Halverson was barred from the Clark County Regional Justice Center. Halverson personally hired two “bodyguards” to secure the office for her and her staff without the informing court administration or court security. There was an unauthorized search in Judge Halverson’s chambers but the personal bodyguards stopped the group before entering the office. The following day, Hardcastle met with the three-judge committee and the court administration to discuss the previous day’s events. They all agreed that the bodyguards should be removed from the courthouse and that Las Vegas Metropolitan Police Department should be present when the removal occurred. The removal did not take place and the police left without incident. Halverson insisted that she was allowed to retain private bodyguards. She later was asked to meet with the judge committee, but refused because she was not contacted through her attorney. Chief Judge Hardcastle, the presiding judges, and the court administration agreed that Halverson and her bodyguards should be removed until Halverson agreed to meet with them to discuss everyone’s security concerns.

On May 10, 2007, Hardcastle entered an administrative order prohibiting Halverson and her two private bodyguards from entering the Regional Justice Center. Judge Halverson contends that she was not notified nor had the opportunity to be heard before being banned from the building. Chief Judge Hardcastle ordered that, “in order to protect public safety and to prevent further interference with the orderly administration of justice in the courthouse,” Halverson, effective immediately, was barred from the justice center until she agreed to meet with the three-judge committee.

Halverson’s petition for writ of quo warranto followed these events, in which Judge Halverson specifically challenges Judge Hardcastle’s authority to do three things: (1) require her to meet with the three-judge committee concerning her judicial and nonjudicial activities; (2) remove and reassign her criminal caseload; (3) order that she be barred from the justice center until she agrees both to meet with the committee of judges and to discontinue her “disruptive behavior and threats to courthouse security.”

## **Discussion**

A chief judge is authorized to administratively coordinate “the smooth running of court business,” however, all elected judges enjoy coextensive and concurrent jurisdiction and power, and the Nevada Commission on Judicial Discipline enjoys exclusive authority over formal judicial discipline. Thus, if the chief judge’s administrative powers include the evaluation of a fellow judge’s conduct and rendering punishment against a judge, such action will interfere with other judicial officers and the Nevada Commission on Judicial Discipline.

The chief judge is broadly authorized to carry out the district courts’ inherent authority to ensure the orderly administration of judicial business. As long as the chief judge follows relevant statutes and court rules, he or she may convene committees of judges to review another judge’s conduct in processing cases and even remove or reassign cases. Also, under certain circumstances, she may properly exercise her supervisory authority over court business to ban another judge from the courthouse.

However, her supervisory authority is limited to emergency circumstances that were not demonstrated here.

In order to accomplish a chief justice's administrative obligations, the chief judge "must" appoint a committee of judges so that the committee could attempt to address issues relating to Judge Halverson's conduct on and off the bench. However, a chief judge has no authority to require a judge to meet with the committee to discuss her performance and then ban her from the courthouse. The proper remedy, absent an emergency situation, would be wither with Nevada Supreme Court, as "administrative head of the court system," or, if appropriate, with the judicial discipline commission.

A chief judge does not have either express authority or inherent authority in banning a judge from the courthouse. In the absence or properly adopted security rules or other explicitly states authority permitting the chief judge to ban other judges from the courthouse, no express authority for such action has been shown. A chief judge may not exercise his or her inherent authority to bar other district judges from performing their judicial duties, except in emergency situations in which no other adequate means exist to preserve court security or reasonably necessary court functions. Chief Judge Hardcastle has not demonstrated that such an emergency authorized the use of her inherent powers to immediately ban Judge Halverson from the justice center in order to protect the proper administration of justice, or that she had not adequate means by which to do so. Hardcastle exceeded her powers as chief judge, effectively intruding upon Halverson's exercise of judicial functions.

The reassignment of criminal cases was appropriate because the chief judge can do so out of valid "convenience" and "necessity" reasons. Halverson had more experience in the civil law arena, and allowing her more time to become proficient on criminal procedure could help the court to operate more efficiently.

### **Conclusion**

Petition for a writ of quo warranto is granted in part and denied in part. Chief Judge Hardcastle's actions in appointing a three-judge committee and in removing Judge Halverson's criminal cases constituted a proper exercise of her administrative authority, a writ of quo warranto is not warranted to address those issues. However, with respect to a May 10<sup>th</sup> order banning Judge Halverson from the justice center until she cooperates. Chief Judge Hardcastle overstepped her authority.