

Aftercare of Clark County v. Justice Court of Las Vegas, 120 Nev. Adv. Rep. 2, 82 P.3d 931 (Nev. 2004).¹

CONSTITUTIONAL LAW – RIGHT TO JURY TRIAL

Summary

Solidad Ramirez and Imelda Izquierdo were involved in an automobile accident with William Roper. Ramirez and Izquierdo filed a civil action against William Roper for damages arising out of that accident claiming less than \$5,000 in damages.

Eric Lehy was involved in an automobile accident with Michael Mullins. Lehy brought suit against Mullins and Aftercare of Clark County for damages arising from that accident. Similar to Ramirez and Izquierdo, Lehy claimed less than \$5,000 in damages.

The parties in each action demanded a jury trial in justice court and both requests were denied. Despite the jury trial request, the justice court scheduled a bench trial in both cases because the damages in question were less than \$5,000. The Las Vegas Township Justice Court adopted a policy in 1999 that jury trials would only be allowed in cases involving \$5,000 or more in damages. The district court approved the policy because the policy would “preserve judicial resources.”² Upon denial of their request, the parties appealed to the district court for a ruling directing the lower court to conduct a jury trial in both actions. The parties contended that their constitutional right to a jury trial had been denied. Following its approval of the policy, the district court upheld the ruling of the justice court, denying a jury trial because the claimed damages were less than \$5,000. The appellants then asked the Nevada Supreme Court to determine whether their right to a jury trial under the Nevada Constitution had been violated by the justice court policy.

Issue and Disposition

Issue

Does the justice court violate the Nevada Constitution’s right to a jury trial by denying a jury trial to litigants who have brought a cause of action of less than \$5,000?

Disposition

Yes. The Nevada Constitution guarantees the right to a jury trial and places no threshold on the amount of money necessary to claim that right.

Commentary

State of the law before *Aftercare*

¹ By Jeff Hall

² *Aftercare of Clark County v. Justice Court of Las Vegas*, 82 P.3d 931, 932 (Nev. 2004).

In 1999, the Las Vegas Township Justice Court adopted a policy that jury trials would only be allowed in cases involving \$5,000 or more in damages. The justice court contends that this policy compliments NRS 73.010. This statute provides that the justice of the peace may proceed under a small claims action if the amount in controversy is less than \$5,000.³

The Justice Court Rules of Civil Procedure state that the right to a jury trial “as stated by the Constitution of the State or given by statute of the State shall be preserved to the parties inviolate.”⁴ The rules go on to state that a trial in justice court shall be by jury unless waived by both parties or the court finds that the right of jury trial does not extend to the action in question under the Nevada Constitution.⁵ In accordance with these provisions, the justice court had determined, and the district court approved, that there was no right to a jury trial for claims that involved less than \$5,000.⁶

The Seventh Amendment to the United States Constitution does not apply to the states. Accordingly, states have preserved the right to a jury trial in their own constitutions. The Nevada Constitution states that “the right to trial by jury shall be secured to all and remain inviolate forever.”⁷ When questions arise concerning the scope of this right, the court has repeatedly held that this right is to be construed as it existed when Nevada’s Constitution was adopted in 1864.⁸ The court looks to the English common law as it was modified at the time of the adoption of the Nevada Constitution.

In England, courts of request had been set up as early as 1519 to handle claims under forty schillings.⁹ These courts allowed small claims to be heard without a jury to avoid litigation expenses that had previously made bringing these claims too difficult for the poor or simply uneconomical.¹⁰ Parliament followed the success of the courts of request by setting up county courts, which heard cases under fifty pounds. In these courts, there was no right to a jury trial for a claim less than five pounds and a reduced jury for anything more.¹¹ There was also no right to remove a case or appeal a decision if the amount claimed did not meet the jury threshold.¹²

Effect of *Aftercare* on Current Law

The justice court \$5,000 requirement for a jury trial is not constitutional in Nevada. That court will no longer make determinations about a threshold amount in controversy needed before a litigant can have a jury. The *Aftercare* decision makes clear that there is no minimum threshold needed for a jury trial under the Nevada Constitution.

³ NEV. REV. STAT. 73.010 (2004).

⁴ JUD. CT. R. CIV. P. 38(a).

⁵ JUD. CT. R. CIV. P. 39(a).

⁶ *AfterCare*, 82 P.3d at 938 (Justice Gibbons, J., dissenting).

⁷ NEV. CONST. ART. 1 § 3.

⁸ See *Hudson v. City of Las Vegas*, 409 P.2d 245, 247 (Nev. 1965); *Howard v. State*, 422 P.2d 548, 550 (Nev. 1967).

⁹ Margreth Bartlett, *The Constitutional Right to Jury Trial: A Historical Exception for Small Monetary Claims*, 39 HASTINGS L.J. 125, 138 (1987).

¹⁰ See *id.*

¹¹ *Id.* at 139.

¹² *Id.*

While economically inefficient, considering court costs and cost of taking a jury out of the work force, either party may demand a jury trial no matter what the amount at stake is.

The *Aftercare* decision also makes clear that the right to a jury trial is interpreted by the common law as it was modified in this territory at the time the Nevada Constitution was adopted. In future disputes concerning the right to a jury trial, the courts will look to the practice in the territory at this time to determine whether a right to a jury exists.

Unanswered Questions

In this case, the plaintiffs did not file the action in small claims. The majority states that the outcome of this appeal may have been different if the action was commenced as a small claims action, inferring that a defendant could not ask for a jury in a small claim action.¹³ The difference between a defendant having or not having a right to a jury trial would be whether the plaintiff filed in small claims court or not. Given the purpose of small claims courts, it would make sense for the plaintiff to choose the inexpensive process of small claims over the expense of regular litigation. This allows a financially challenged plaintiff to bring such small claims while avoiding the cost of full blown jury trial. However, this is a question for the court to answer in the future.

Other Jurisdictions

In California, a plaintiff may bring a small claims action if the amount in controversy is less than \$5,000.¹⁴ There is no jury right in small claims court and no right of appeal.¹⁵ If the plaintiff is uncomfortable with the informal setting of small claims court, she may proceed with a cause of action under the regular jurisdiction of the justice court.¹⁶ The defendant, meanwhile, has no say on whether the case is brought as a small claim or under the court's regular jurisdiction.¹⁷

Federal courts have held to the twenty dollar threshold for suits at common law.¹⁸ In federal suits, if the remedy is purely equitable, there is no right to a jury. If money damages are at issue, the threshold for a jury is still only twenty dollars.¹⁹

Conclusion

The Nevada Supreme Court has determined that the right to a jury trial is more important than making justice economically efficient. The Nevada Constitution allows a jury trial no matter how small the amount in controversy. The choice is up to the

¹³ *Aftercare of Clark County v. Justice Court of Las Vegas*, 82 P.3d 931, 935 (Nev. 2004).

¹⁴ See CAL. CIV. PROC. CODE § 116.220 (West 2004).

¹⁵ See *Cook v. Superior Court, San Mateo County*, 79 Cal. Rptr. 285 (1969).

¹⁶ *Id.* at 286-87.

¹⁷ *Id.*

¹⁸ See *Wigg v. Sioux Falls School Dist.* 49-5, 274 F.Supp.2d 1084 (D.S.D. 2003) (holding there was no right to a jury trial where the amount in controversy did not exceed twenty dollars).

¹⁹ *Id.*

plaintiff, not the court the action is filed in. If a plaintiff wants to avoid the formalities of a jury trial and the costs, the plaintiff may file a small claim if the amount in controversy is less than \$5,000. But *Aftercare* makes clear that a formal jury trial is available for litigants, no matter how little is involved.