

IN THE SUPREME COURT OF THE STATE OF NEVADA

COUNTY OF CLARK, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA, ON RELATION OF
MCCARRAN INTERNATIONAL
AIRPORT,
Appellant,

vs.

GARY BRUNO, A MARRIED MAN;
GEORGE RUDIAK AND GERTRUDE
RUDIAK, TRUSTEES OF THE
GEORGE RUDIAK REVOCABLE
LIVING TRUST; SAM IACOVETTO, JR.
AND BILLIE ANN IACOVETTO, CO-
TRUSTEES OF THE IACOVETTO
FAMILY TRUST, DATED JULY 31,
1989,
Respondents.

No. 35056

FILED

OCT 29 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

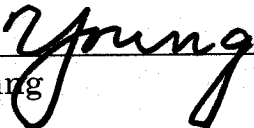
ORDER OF REVERSAL AND REMAND WITH INSTRUCTIONS

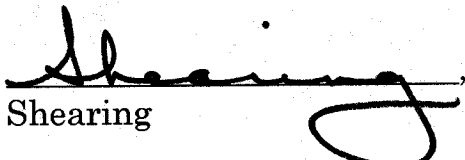
This is an appeal from an order of the district court determining the date of valuation for condemnation damages in an eminent domain action. The issue on appeal is whether the district court erred by declining to conduct a new trial to determine the respondent landowners' condemnation damages pursuant to this court's June 1998 order of remand which set the valuation date at the date of the first service of the summons.¹ Having fully reviewed the briefs and the record, we conclude that this court's June 1998 order of remand is the law of the

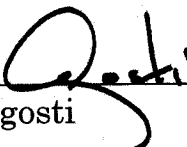
¹See County of Clark v. Bruno, Docket No. 28771 (Order of Remand, June 23, 1998); see also County of Clark v. Bruno, Docket No. 28771 (Order Denying Rehearing, December 8, 1998).


case.² Thus, the 1999 amendment to NRS 37.120 does not apply to this case. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for a new trial with the valuation date set at the date of the first service of the summons.³


_____, J.
Young


_____, J.
Shearing


_____, J.
Agosti


_____, J.
Becker

cc: Hon. Nancy M. Saitta, District Judge
Clark County District Attorney/Civil Division
Clark County District Attorney
Laura Wightman FitzSimmons
Law Office of Kermitt L. Waters
Clark County Clerk

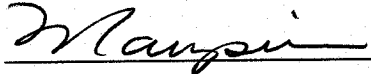
²See Andolino v. State of Nevada, 99 Nev. 346, 350, 662 P.2d 631, 633 (1983) (The doctrine of law of the case is well established in Nevada law, and “where an issue has once been adjudicated by a first appeal, that adjudication is the law of that case in subsequent proceedings.”).

³The Honorable Robert E. Rose, Justice, and the Honorable Myron E. Leavitt, Justice, voluntarily recuse themselves from participation in the decision of this matter.

MAUPIN, C.J., dissenting:

In our remand for a new trial in 1998, we noted that “[a]ssessment of compensation and damages in an eminent domain action is generally determined as of the date of the first service of the summons.”¹ We also noted that the only two statutory exceptions to the use of the date of summons as the valuation date involved fault by the parties to eminent domain litigations, causing the matter to be tried more than two years from commencement of the action. Because neither party to the action caused the delay, and because the only delay mechanism at that time was the congestion in the district court’s docket, we remanded the matter for a new trial.

After remand, but before trial, the 1999 legislature added an additional exception to the rule requiring utilization of the date of service as the valuation date, to wit: congestion in the court’s trial docket. It appears that the legislature identified a latent ambiguity in NRS 37.120 that we did not identify in our 1998 resolution of these matters. Treating the new provision as a clarification of the old, and given the district court’s equitable powers, it was not an abuse of discretion for the district court on remand to leave the original verdict intact.

 C.J.
Maupin

¹County of Clark v. Bruno, Docket No. 28771 (Order of Remand, June 23, 1998) (citing NRS 37.120(1)).