

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARSON CITY SHERIFF'S
PROTECTIVE ASSOCIATION,
Appellant,
vs.
CARSON CITY,
Respondent.

No. 58221

FILED

NOV 30 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY H. Angelou
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order confirming an arbitration award. First Judicial District Court, Carson City; James Todd Russell, Judge.

The Carson City Sheriff's Protective Association appeals the district court's denial of its motion to vacate an arbitration award and order confirming the award in an employment dispute. We reverse and remand.

A manifest disregard of the law occurs when an arbitrator "recognizes that the law absolutely requires a given result and nonetheless refuses to apply the law correctly." Bohlmann v. Printz, 120 Nev. 543, 545, 96 P.3d 1155, 1156 (2004), overruled on other grounds by Bass-Davis v. Davis, 122 Nev. 442, 134 P.3d 103 (2006). Here, the arbitrator manifestly disregarded NRS 289.060 and NRS 289.085 when he admitted and considered evidence about two events not listed in Deputy Sheriff Pinochi's specificity of charges. The arbitrator acknowledged that NRS 289.060(1) requires law enforcement agencies to provide written notice to peace officers who are the subject of an investigation no less than 48 hours before any interrogation or hearing related to the investigation. In the

notice, law enforcement agencies must describe the nature of the investigation and a summary of the peace officer's alleged misconduct. NRS 289.060(2). The arbitrator also correctly explained that evidence obtained in violation of NRS Chapter 289 is inadmissible during an arbitration hearing if it may prejudice the peace officer. NRS 289.085. Despite this understanding of the applicable law, the arbitrator admitted evidence of two events that he previously found where Pinochi had not received proper notice. Further, the arbitrator used the potentially prejudicial¹ evidence as justification for Pinochi's termination. This inexplicable disregard of an unambiguous law was reversible error.


We further conclude that the arbitrator exceeded his authority by failing to limit his review to the single properly noticed event that resulted in Pinochi's termination. Clark Cty. Educ. Ass'n v. Clark Cty. Sch. Dist., 122 Nev. 337, 342, 131 P.3d 5, 9 (2006) (the arbitrary-and-capricious standard limits our review to whether substantial evidence in the record supports the arbitrator's findings).


Accordingly, we reverse the district court order denying appellant's motion to vacate and confirming the arbitration award, and

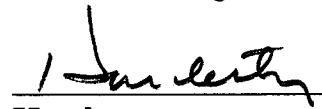
¹The evidence was potentially prejudicial, at the very least, because the arbitrator discussed these other incidents as a basis for termination.

remand this matter to the district court with instructions to vacate the arbitration award.

It is so ORDERED.


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. James Todd Russell, District Judge
David Wasick, Settlement Judge
Mark A. Kilburn
Carson City District Attorney
Carson City Clerk