

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE
APPLICATION OF RONALD
ARMANDO GALLEGOS.

No. 72921

RONALD ARMANDO GALLEGOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

FILED

AUG 02 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Ronald Armando Gallegos appeals from a district court order denying a petition to seal criminal records. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

In the underlying proceeding, Gallegos petitioned to have his criminal records sealed under, as relevant here, NRS 179.245¹ (authorizing petitions to seal records relating to convictions) and NRS 179.255² (authorizing petitions to seal records relating to criminal charges that did not result in conviction or convictions that have been set aside). Without a hearing, the district court issued minutes indicating that Gallegos's petition

¹While several amendments to NRS 179.245 took effect on October 1, 2017, 2017 Nev. Stat., ch. 256, § 4, at 1328-30; 2017 Nev. Stat., ch. 277, § 1.4, at 1482-85; 2017 Nev. Stat., ch. 310, § 3.2, at 1653-55; 2017 Nev. Stat., ch. 378, § 7, at 2413-15, we apply the version of that statute that went into effect on October 1, 2015, which was the version in effect when Gallegos filed his petition.

²An amendment to NRS 179.255 also went into effect on October 1, 2017, 2017 Nev. Stat., ch. 378, § 8, at 2415-17, but we apply the version of that statute that went into effect on January 1, 2014, which was the version in effect when Gallegos filed his petition.

was denied because he did not satisfy NRS 179.255(3)(a), which, according to the district court, required him to provide current, verified records from the Central Repository for Nevada Records of Criminal History and “all agencies of criminal justice which maintain such records in the city or county in which the petitioner appeared in court.” The district court then memorialized its decision in a written order, which simply cited NRS 179.255(3)(a) as the basis for the court’s decision. This appeal followed.

On appeal, Gallegos challenges the district court’s decision to deny his petition based on NRS 179.255(3)(a), asserting that he submitted all of the documentation and information necessary to support his petition.³ Initially, while Gallegos’s focus on NRS 179.255(3)(a) is understandable since that provision was the only legal authority cited in the district court’s minutes and written order to support denying his petition, that subsection only applies to petitions to seal records relating to criminal charges that did not result in conviction or convictions that have been set aside. *See State v. Hayes*, 94 Nev. 366, 367, 580 P.2d 122, 123 (1978) (considering NRS 179.255 (1971), which is substantially similar to the present version of the statute, and explaining that it did not apply to records relating to convictions). Because Gallegos did not limit his petition to a request to seal records relating to criminal charges, but rather, also sought to seal records relating to convictions, his petition was actually governed by both NRS 179.245 and NRS 179.255. *See id.*

Turning to the relevant language from those statutes, while NRS 179.245(2)(a) required Gallegos to support his request to seal records of his convictions with criminal histories from the Central Repository and

³Although the State of Nevada filed an answering brief in this matter, we do not consider its summary argument, as the State did not appear or present argument below.


from “[a]ll agencies of criminal justice which maintain such records” in Clark County, NRS 179.255(3)(a) did not, notwithstanding the district court’s interpretation of that statute in its minutes. To the contrary, NRS 179.255(3)(a) is narrower, as it only required Gallegos to support his request to seal records of his criminal charges with a criminal history “from the local law enforcement agency” where he appeared in court, which here is the Las Vegas Metropolitan Police Department (LVMPD). Thus, given the foregoing, it is not entirely clear which of these two provisions the district court actually applied in denying Gallegos’s petition.


But we need not resolve that issue because, insofar as the district court found that Gallegos failed to comply with these provisions, its finding was either clearly erroneous or insufficient for appellate review. See *Ogawa v. Ogawa*, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009) (explaining that a district court’s factual findings will be given deference unless they are clearly erroneous or unsupported by substantial evidence). In particular, a review of the record reveals that Gallegos supported his petition with verified criminal histories from the Central Repository and LVMPD, and, as a result, we conclude that the district court’s order was clearly erroneous insofar as it found to contrary.⁴ Because Gallegos supported his petition with a verified criminal history from LVMPD, it is clear that he complied with NRS 179.255(3)(a). Likewise since Gallegos provided verified criminal histories from both the Central Repository and

⁴To the extent that the district court may have determined that Gallegos provided outdated criminal histories, we note that the age of the criminal histories that Gallegos submitted appears to be attributable to his decision to participate in a review process with the Clark County District Attorney’s office before filing his petition based on a local practice in the Eighth Judicial District Court. Insofar as that is the case, we are confident that the district court will permit Gallegos to supplement his supporting documentation on remand.

LVMPD, he largely, if not fully, complied with NRS 179.245(2)(a). Of course, we recognize that it is possible that under NRS 179.245(2)(a)(2), Gallegos may have needed to provide additional criminal histories from other “[a]gencies of criminal justice” in Clark County. But the district court did not make any specific findings as to whether Gallegos failed to provide such criminal histories, and as a result, it is impossible for us to fully evaluate the propriety of the district court’s decision in this regard. Thus, given the foregoing, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.⁵


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Michelle Leavitt, District Judge
Nevada Legal Services/Las Vegas
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

⁵To the extent Gallegos seeks additional relief on appeal, we have considered those requests and discern no basis for such relief.