

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY SCHOOL DISTRICT,
Appellant,
vs.
LAS VEGAS REVIEW-JOURNAL,
Respondent.

No. 75534

FILED

FEB 27 2020

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order awarding attorney fees and costs in an action to compel access to records under the Nevada Public Records Act. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

The underlying action stems from a records dispute between the Clark County School District (CCSD) and the Las Vegas Review-Journal (LVRJ).¹ LVRJ sought CCSD records pertaining to an investigation into CCSD Trustee Kevin Child's allegedly inappropriate behavior. After CCSD delayed its response to LVRJ's records request and otherwise denied access to the requested records, LVRJ filed a writ petition in district court seeking compelled access to the records under the Nevada Public Records Act (NPRA). The district court ultimately granted LVRJ's writ petition and ordered disclosure of redacted records. CCSD appealed the district court's order.

While CCSD's appeal was pending, LVRJ moved for an award of attorney fees and costs, and moved for a finding that CCSD acted in bad

¹This court resolved LVRJ's action to compel CCSD's production of records in *Clark County School District v. Las Vegas Review-Journal*, 134 Nev. 700, 429 P.3d 313 (2018). This separate appeal challenges only the district court's award of attorney fees.

faith. LVRJ requested a total of \$105,698.37 in fees and costs, and CCSD opposed the request, arguing that NRS 239.012 extended immunity to a governmental entity that responded in good faith to a request for public records. After a hearing, the district court granted LVRJ's motion for an award of attorney fees but did not find that CCSD acted in bad faith. The district court granted LVRJ's request for \$105,698.37 as well as additional fees and costs for a total award of \$125,749. CCSD now challenges the attorney fee award, arguing that it is immune from such an award by virtue of NRS 239.012.² We disagree with CCSD's argument and affirm the district court's order.

An attorney fee award that is based on an interpretation of a statute providing for attorney fee eligibility presents a question of law subject to de novo review. *In re Estate of Miller*, 125 Nev. 550, 552-53, 216 P.3d 239, 241 (2009). CCSD's arguments relate solely to the district court's interpretation of NRS 239.012, specifically the court's conclusion that CCSD was not immune from an attorney fee award under NRS 239.012.

CCSD argues that NRS 239.011(2), which entitles a prevailing records requester to attorney fees and costs, must be interpreted in conjunction with NRS 239.012, which extends immunity from "damages" to a governmental entity that withholds or discloses records in good faith when responding to a records request. We recently rejected this argument in *Clark County Office of the Coroner v. Las Vegas Review-Journal*, 136 Nev.,

²The Nevada Legislature recently enacted numerous amendments to the NPRA with the passage of Senate Bill 287. S.B. 287, 80th Leg. (Nev. 2019). Because S.B. 287's "amendatory provisions . . . apply to all actions filed on or after October 1, 2019," this order applies the version of the NPRA in effect at the time the instant action was initiated. 2019 Nev. Stat., ch. 612, § 11, at 4008.

