

IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA, TREASURER'S  
OFFICE, BRIAN KROLICKI, STATE  
TREASURER,

Appellant,

vs.

CITY OF LAS VEGAS, A MUNICIPAL  
CORPORATION,

Respondent.

No. 37587

FILED

JUN 20 2002

JANE ITEM BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
DEPUTY CLERK

ORDER OF REVERSAL

This is an appeal of a district court order holding that overpaid parking fines do not fall within the Nevada Unclaimed Property Act ("Act").

The State of Nevada, Unclaimed Property Division ("Division") and the City of Las Vegas ("City") stipulated to all pertinent facts, and utilizing the provisions in NRS 29.010, they submitted the controversy for resolution by the court.

The basis of the controversy was the applicability of the Act to parking fine overpayments received by the City prior to December of 1996. Throughout the period in question, the City of Las Vegas Municipal Code § 11.10.190 provided that "[t]he civil fine for any of the infractions which are described in LVMC 11.10.150 or 11.52.250 through 11.52.270 inclusive must be reduced by fifty percent if payment is received within fifteen calendar days after the date on which the notice of infraction is issued" (emphasis added).<sup>1</sup> For many years while this ordinance was in place, many persons cited paid the total fines set forth on the face of the citations

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<sup>1</sup>This provision has since been repealed.

even when making payment within the fifteen-day period. The City consistently refunded the overpayments to eligible persons who requested a refund. The Division audited the City's parking citation records in 1996 and concluded that the parking fine overpayments, which had gone unclaimed for more than five years, were property presumed abandoned pursuant to the Act. The Division also concluded that the City had failed to remit these overpayments as required.

In 1996, NRS 120A.220 provided that "[a]ll intangible personal property held for the owner by any . . . federal or state governmental entity or a political subdivision" which remains unclaimed for more than five years is subject to the provisions of the Act.<sup>2</sup> The Act provides for such property to be turned over to the Division, in trust, to be held in perpetuity for the true owners.<sup>3</sup> NRS 120A.020 provides that "unless the context otherwise requires, the words and terms defined in NRS 120A.025 to 120A.120, inclusive, have the meanings ascribed to them in those sections." NRS 120A.110 defines "[p]erson" to include "a political subdivision of a government." NRS 120A.080 defines "[h]older" as "a person, wherever organized or domiciled, who is: 1. In possession of property belonging to another; . . . or 3. Indebted to another on an obligation."<sup>4</sup> Under NRS 120A.095, money is included in the definition of "intangible property."

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<sup>2</sup>Several provisions of NRS 120A were amended in the 2001 legislative session. Unless otherwise noted, the provisions presented throughout this order are those in effect at the time of the dispute.

<sup>3</sup>NRS 120A.320.

<sup>4</sup>The definition of "holder" was amended in 2001. The current definition is "a person, obligated to hold for the account of, or deliver or  
*continued on next page . . .*

The Division argues that the City is clearly a holder of unclaimed property as defined by the Act. The City disputes this and contends that, as to governmental agencies, the Act applies only to custodial property and that the overpayments are not custodial property since the money was voluntarily, albeit neglectfully paid. The City claims that the use of different terminology in the section applicable to governmental agencies - NRS 120A.220 - evidences a desire to narrow the application of the Act to custodial property, *i.e.*, to describe what would be classified as unclaimed property, NRS 120A.220 utilizes the phrase "all intangible personal property held for the owner," while other sections refer to property "held or owing."<sup>5</sup> We conclude that the City's argument lacks merit.

Statutory construction is an issue of law subject to this court's de novo review.<sup>6</sup> "The general principles of statutory construction are straightforward. 'It is well settled in Nevada that words in a statute should be given their plain meaning unless this violates the spirit of the act.'"<sup>7</sup> In addition, "[s]tatutes within a scheme and provisions within a statute must be interpreted harmoniously with one another in accordance

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pay to, the owner property that is subject to this chapter." NRS 120A.080 (2001).

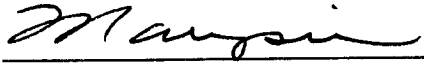
<sup>5</sup>See, e.g., NRS 120A.190; NRS 120A.230.

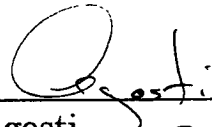
<sup>6</sup>University System v. DR Partners, 117 Nev. \_\_\_, \_\_\_, 18 P.3d 1042, 1045 (2001).


<sup>7</sup>Matter of Estate of Thomas, 116 Nev. 492, 495, 998 P.2d 560, 562 (2000) (quoting McKay v. Bd. Of Supervisors, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986)).

with the general purpose of those statutes.”<sup>8</sup> We conclude that the plain meaning of NRS 120A.220, when read in context with other provisions of the Act and the municipal ordinance enacted by the City, is clear. The violators paid the entire amount of the fine within fifteen days of receiving the citation. Pursuant to the ordinance, the City was obligated to reduce the fine by fifty percent. The excess monies received by the City became “payable or distributable” to the payee immediately. Giving effect to the literal meaning of the words in the statute, the city is a holder and the parking fine overpayments are abandoned property subject to the provisions of the Act if they have remained unclaimed for more than five years.<sup>9</sup> Accordingly, we conclude that the district court erred in concluding that the parking fine overpayments were not subject to the Act and

ORDER the judgment of the district court REVERSED.

  
\_\_\_\_\_, C.J.  
Maupin

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

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<sup>8</sup>Washington v. State, 117 Nev. \_\_\_, \_\_\_, 30 P.3d 1134, 1136 (2001) (citing Ex Parte Prosole, 32 Nev. 378, 383, 108 P. 630, 633 (1910)).

<sup>9</sup>Because we conclude that the overpayments fall within NRS 120A.220, we need not reach the Division’s contention that they could fall within the “catchall” provision in NRS 120A.230.

cc: Hon. Michael A. Cherry, District Judge  
Attorney General/Carson City  
Las Vegas City Attorney  
Clark County Clerk