IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA
DEPARTMENT OF PUBLIC SAFETY,
SEX OFFENDER REGISTRY UNIT,
Appellant,
vs.
RONNIE PHILLIP CRINER, JR.,
Respondent.

No. 83982

FILED

FEB 23 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal of a district court order granting a writ of mandamus directing appellant to reclassify respondent as a Tier I offender, instead of a Tier II offender, based on his conviction for sexually motivated coercion. Eighth Judicial District Court, Clark County; Bita Yeager, Judge.

Reviewing a grant of writ relief for an abuse of discretion, and questions of statutory interpretation de novo, *State, Dep't of Pub. Safety v. Coley*, 132 Nev. 149, 153, 368 P.3d 758, 760-61 (2016), we affirm.

Appellant State of Nevada Department of Public Safety, Sex Offender Registry Unit (the Registry) argues that the district court erred in its interpretation of NRS 179D.115, and, as a result, erred in granting mandamus relief to respondent Ronnie Phillip Criner, Jr. Instead, the Registry asserts that Criner's conviction for sexually motivated coercion makes him a "Tier II offender," as defined by NRS 179D.115, because his victim was a minor. We disagree.

This court has recognized that "[a] writ of mandamus is available to compel the performance of an act that the law requires . . . or to compel an arbitrary or capricious exercise of discretion." *Coley*, 132 Nev. at 153, 368 P.3d at 760 (quoting *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008)). A writ of

mandamus shall issue in all cases where there is no plain, speedy, and adequate remedy at law. NRS 34.170. Here, it is undisputed that there is currently no method of appealing the Registry's classification of an offender under NRS Chapter 179D. Thus, we conclude that the district court did not abuse its discretion by finding Criner had no "plain, speedy and adequate" remedy at law. Next, we turn to the merits of the petition.

This court has noted that, "[w]hen interpreting a statute, legislative intent 'is the controlling factor.'" *State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011) (quoting *Robert E. v. Justice Court*, 99 Nev. 443, 445, 664 P.2d 957, 959 (1983)). Our inquiry begins with the statute's plain meaning, and "when a statute 'is clear on its face, a court can not go beyond the statute in determining legislative intent." *Id.* (internal quotation marks omitted). Hence, we must first determine whether NRS 179D.115, the statute defining "Tier II offender," is ambiguous on its face.

NRS 179D.115 reads, in relevant part, as follows:

> "Tier II offender" means an *offender convicted of a crime against a child* or a *sex offender* . . . whose crime against a child is punishable by imprisonment for more than 1 year or whose sexual offense:
>
> 1. If committed against a child, constitutes:
>
> (a) Luring a child pursuant to NRS 201.560, if punishable as a felony;
>
> (b) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;
>
> (c) An offense involving sex trafficking pursuant to NRS 201.300 or prostitution pursuant to NRS 201.320 or 201.395;
>
> (d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or;

> (e) Any other offense that is comparable to or more severe than the offenses described in 34 U.S.C. § 20911(3) . . . .

(Emphases added.) As referenced in NRS 179D.115, "offender convicted of a crime against a child" is defined as "a person who . . . is or has been convicted of a crime against a child that is listed in NRS 179D.0357." NRS 179D.0559(1). Whereas "sex offender" is defined as "a person who . . . is or has been convicted of a sexual offense listed in NRS 179D.097." NRS 179D.095(1).

While the Registry urges this court to adopt the plain meaning of "crime against a child," we decline to do so given the statutory definition in NRS 179D.0357. *See* NRS 179D.010 ("As used in this chapter . . . the words and terms defined in NRS 179D.015 to 179D.120, inclusive, have the meanings ascribed to them in those sections."). Here, sexually motivated coercion is not one of the offenses listed under NRS 179D.0357 constituting a "crime against a child." Instead, sexually motivated coercion is defined as a "sexual offense" under NRS 179D.097(1)(t).[1] Therefore, we conclude that the statute is unambiguous, and we need not look beyond its plain language to determine legislative intent.[2]

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[1]We note that the State had the ability to charge Criner with and seek conviction for a "crime against a child," as listed in NRS 179D.0357, but did not do so.

[2]We also reject the Registry's argument that the district court erred by failing to give the Registry's interpretation of NRS 179D.115 deference. We conclude that the Registry's interpretation was unreasonable, therefore, it was not entitled to deference. *See SIIS v. Miller*, 112 Nev. 1112, 1118, 923 P.2d 577, 581 (1996) ("[T]he administrative agency charged with the duty of administering [a] statute . . . is entitled to receive deference from this court to its interpretations of the laws it administers so long as such interpretations are 'reasonable' and 'consistent with the legislative intent.'" (quoting *SIIS v. Snyder*, 109 Nev. 1223, 1228, 865 P.2d 1168, 1171 (1993))).

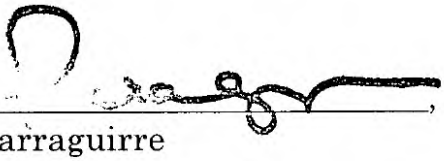
We further conclude that sexually motivated coercion is not "comparable to" or "more severe than," the federal crime of coercion and enticement as set forth under NRS 179D.115(1)(e). Here, the offense of sexually motivated coercion under Nevada law, sweeps significantly more broadly than the federal crime of coercion and enticement.[3] *Compare* NRS 207.190(1) (setting forth the offense of coercion), *and* NRS 207.193(6) (characterizing an offense as sexually motivated), *with* 18 U.S.C. § 2422(b) (the federal crime of coercion and enticement).

Accordingly, we conclude that the district court did not abuse its discretion in granting mandamus relief directing the Registry to reclassify Criner as a Tier I offender. Therefore, we

ORDER the judgment of the district court AFFIRMED.

_____, J.
Herndon

_____, J.
Lee



_____, J.
Parraguirre

[3]We decline to address the Registry's arguments regarding the circumstance-specific approach because they were not raised below. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal.").

cc: Hon. Bita Yeager, District Judge
Attorney General/Carson City
Attorney General/Las Vegas
Clark County Public Defender
Eighth District Court Clerk