

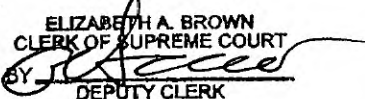
IN THE SUPREME COURT OF THE STATE OF NEVADA

VIOLA WILSON ADMINISTRATOR  
AND PERSONAL REPRESENTATIVE  
OF THE ESTATE OF SADIE SHARPE;  
AND THE ESTATE OF SADIE  
SHARPE,  
Appellants,  
vs.  
ALISHA GRUNDY, AN INDIVIDUAL,  
Respondent.

No. 84654

FILED

SEP 28 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is an appeal from a district court order granting summary judgment to respondent and denying summary judgment to appellants in a property dispute. Eighth Judicial District Court, Clark County; Nancy L. Alf, Judge.

In 1993, Raymond Sharpe trafficked respondent Alisha Grundy, then 16 years old, to work as a prostitute. Grundy worked under Raymond's abusive control, predominantly in southern Nevada and southern California, until 2011, when Raymond was arrested and sentenced to prison in Clark County. After Raymond's sentencing, Grundy sought possession of his vehicles and property, which she alleged were financed through her earnings as a prostitute. The district court granted Grundy possession of certain real property and vehicles in 2018 (hereinafter, the 2018 Judgment), after interpreting NRS Chapter 207 to grant Grundy a private cause of action for civil forfeiture as a victim of racketeering.

Among the properties forfeited in the 2018 Judgment were two homes in San Diego, California (the California Properties). However, Sadie

Sharpe, Raymond's mother, held title to the California Properties, which complicated Grundy's efforts to obtain possession. Grundy did not name Sadie as a claimant in her forfeiture action even though her claims alluded to Sadie's ownership of the California Properties.

In October 2018, Grundy sued Sadie in the Superior Court of California, San Diego County, seeking to quiet title to the California Properties based on the 2018 Judgment (the California Action). Apparently realizing that the 2018 Judgment had not been entered against Sadie, Grundy returned to Nevada in January 2020 and sued Sadie in the Eighth Judicial District Court. The complaint alleged that civil forfeiture of the California Properties to Grundy was proper pursuant to NRS Chapter 207 and the 2018 Judgment. Moreover, Sadie's alleged participation in running Raymond's prostitution ring foreclosed any "innocent owner" defense to forfeiture. The complaint also argued that Grundy was entitled to the properties under the theory of constructive trust. After Sadie passed away in October 2020, Grundy filed an amended complaint substituting appellants the Estate of Sadie Sharpe and Viola Wilson—Sadie's daughter and administrator of Sadie's estate—as defendants (collectively, Wilson).

After the parties filed competing motions for summary judgment, the district court granted Grundy summary judgment in full and denied Wilson summary judgment in full. Wilson now appeals the district court's order.

"Summary judgment is appropriate . . . when the pleadings and other evidence . . . demonstrate that no genuine issue [of] material fact [exists] and that the moving party is entitled to a judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005) (internal quotation marks omitted). Applying de novo review appropriate

to appeals from orders granting summary judgment, *see id.*, we reverse. The district court erred by allowing Grundy, a private litigant, to bring a claim for civil forfeiture and declaratory relief for civil forfeiture under NRS Chapter 207. The district court further erred in finding that Grundy prevailed on her constructive trust claim despite no factual support for the existence of a confidential relationship that is required to form a constructive trust. Thus, the district court's award of summary judgment to Grundy and denial of summary judgment to Wilson was error, as Grundy cannot prevail on any of her claims.

*Private litigants cannot initiate a claim for civil forfeiture under NRS Chapter 207*

In ruling on the parties' motions for summary judgment, the district court rejected Wilson's argument that only the State may initiate civil forfeiture proceedings because "NRS 207.490 and NRS 207.350 et[ ] seq. . . . allow[ ] a private right of action for civil forfeiture." This finding is fundamentally erroneous.

"This court interprets statutes by their plain meaning unless there is ambiguity, the plain meaning would provide an absurd result, or the plain meaning clearly was not intended." *AeroGrow Int'l, Inc. v. Eighth Judicial Dist. Court*, 137 Nev. 734, 739, 499 P.3d 1193, 1198 (2021) (internal quotation marks omitted). A statute is ambiguous if it "is subject to more than one reasonable interpretation." *Savage v. Pierson*, 123 Nev. 86, 89, 157 P.3d 697, 699 (2007).

"[T]he provisions of NRS 179.1156 to 179.121, inclusive, govern the seizure, forfeiture and disposition of all property and proceeds subject to forfeiture" in Nevada, "[e]xcept as otherwise provided in . . . [NRS] 207.350 to 207.520." NRS 179.1156. NRS 207.350 to NRS 207.520 criminalizes racketeering and contains special provisions for forfeiture of

property involved in racketeering crimes. Thus, pursuant to a plain reading of NRS 179.1156, the provisions of NRS Chapter 179 govern Grundy's forfeiture claim unless NRS Chapter 207 specifically provides otherwise.

NRS Chapter 179 contemplates a forfeiture to be an in rem proceeding against property involved in the commission of a crime. See NRS 179.1164(1); NRS 179.1171(4); NRS 179.121. This court has explained that, as an in rem proceeding, forfeiture "makes use of the legal fiction that the [property] committed the crime" and that "[t]herefore, the proceeding is against the res on the theory that the property is tainted." *City of Sparks, Police Dep't v. Nason*, 107 Nev. 202, 204, 807 P.2d 1389, 1390 (1991). NRS Chapter 179 further contemplates that only the State may seek forfeiture of subject property or proceeds. See, e.g., NRS 179.1159 (defining the "Plaintiff" as "the law enforcement agency which has commenced a proceeding for forfeiture"). Thus, unless NRS Chapter 207 provides otherwise, we presume that only a law enforcement agency may seek forfeiture of the California Properties and that any such proceeding must be brought in rem against the property itself, pursuant to the plain language of NRS Chapter 179.

Grundy claims that NRS 207.400, NRS 207.470(1), and NRS 207.490(6) are the operative statutes authorizing a private right to forfeiture. NRS 207.400(1) prohibits numerous activities relating to racketeering, including running a racketeering enterprise and acquiring property using proceeds from racketeering. NRS 207.420 to NRS 207.490 permit a court to order either civil or criminal forfeiture of property involved in a violation of NRS 207.400. Here, the district court's order, as well as the 2018 Judgment, either found or implied that the California Properties were



involved in Raymond's racketeering enterprise in violation of NRS 207.400, which would subject them to forfeiture.<sup>1</sup>

NRS 207.470(1) states that "[a]ny person who is *injured in his or her . . . property* by reason of any violation of NRS 207.400 has a cause of action" for treble damages "against [the] person causing such injury." (Emphasis added.) Critically, the statute goes on to say that

Any injured person has a claim to *forfeited property* or the proceeds derived therefrom and *this claim is superior to any claim the State may have* to the same property or proceeds *if the injured person's claim is asserted before a final decree is issued* which grants forfeiture of the property or proceeds to the *State*.

NRS 207.470(1) (emphases added). NRS 207.490(6) simply provides that "[u]pon a finding of civil liability under . . . NRS 207.470, the court may order the forfeiture of the appropriate property and interests." Thus, NRS 207.470(1) forms the crux of Grundy's claim.

We find NRS 207.470(1) unambiguous, and thus interpret the statute by its plain meaning. While we agree with Grundy that the statute grants a private *claim*, this claim is to property which has already been

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<sup>1</sup>We note that the district court's order appears to rely on the 2018 Judgment's finding that the California Properties were acquired using proceeds from Raymond's racketeering enterprise in violation of NRS 207.400, and thus, subject to forfeiture. We are admittedly perplexed as to how the 2018 Judgment reached this conclusion, given that the record shows that Sadie obtained title to the California Properties in the late 1970s and early 1980s, before Raymond appears to have begun his racketeering activities. Nonetheless, use of racketeering proceeds to acquire interest or equity in the properties would violate NRS 207.400. See NRS 207.400(1)(a)(1). And use of the properties to facilitate racketeering activity, which the district court found to have occurred, would subject the property to forfeiture. See NRS 207.400(1)(b)-(f); NRS 207.460(1).

forfeited to the State, and the statute does not establish a ground for a private citizen to *initiate* a forfeiture *action* independent of the State. This conclusion is further supported by the statute's requirement that the injured person assert a claim before a final decree granting forfeiture to the State issues. Moreover, NRS 207.460 and NRS 207.490(1), like NRS Chapter 179, only authorize the State to seek forfeiture of property involved in a violation of NRS 207.400. *See, e.g.*, NRS 207.460(1) (explaining that property involved in a violation of NRS 207.400 is "subject to civil forfeiture to the State" (emphasis added)); NRS 207.490(1) ("Property subject to forfeiture under NRS 207.420 and 207.460 may be seized by a law enforcement agency upon process issued by a court." (emphasis added)).

Thus, we agree with Wilson that the plain language of NRS Chapter 207's forfeiture provisions, read as a whole, permits the *State* to *initiate* a civil forfeiture claim under NRS 207.460 and NRS 207.490(1)-(4), and then permits an injured *private citizen* to *intervene* before the conclusion of these proceedings under NRS 207.470(1) and assert a claim to the forfeited property. Because Grundy is a private citizen, she was not entitled to initiate forfeiture proceedings against the California Properties under NRS Chapter 207.

Moreover, the district court erred in allowing Grundy to bring her forfeiture claim in personam against Sadie, and then against Wilson and Sadie's estate. NRS Chapter 179 plainly provides that forfeiture proceedings are to be brought in rem, and NRS Chapter 207 does not provide for an alternative jurisdictional theory. NRS 179.1171(4); *cf.* NRS 207.350-207.520. Thus, any complaint for forfeiture should have been filed against the California Properties themselves. This point is moot, however,

given that Grundy, as a private citizen, had no basis to bring her forfeiture claim in the first place.<sup>2</sup>

In sum, we conclude that the district court erred in granting summary judgment to Grundy and denying summary judgment to Wilson with respect to Grundy's civil forfeiture and declaratory relief claims. This error warrants reversal and entry of summary judgment in favor of Wilson.

*The facts do not support the existence of a constructive trust*

"A constructive trust is a remedial device by which the holder of legal title to property is held to be a trustee of that property for the benefit of another who in good conscience is entitled to it." *Klabacka v. Nelson*, 133 Nev. 164, 181, 394 P.3d 940, 953 (2017) (quoting *Locken v. Locken*, 98 Nev. 369, 372, 650 P.2d 803, 804-05 (1982)). Here, the district court concluded that not only were the California Properties subject to forfeiture to Grundy, but that "[d]efendants and particularly Sadie Sharpe have held the [California Properties] in constructive trust for the benefit of [Grundy] since [entry of the prior judgment in 2018]." Accordingly, the district court ordered Wilson to remove Sadie's name from the properties' titles to reflect "Grundy's true and lawful ownership."

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<sup>2</sup>Furthermore, we find it highly unlikely that Nevada courts may exercise in rem jurisdiction over the California Properties. *See Hanson v. Denckla*, 357 U.S. 235, 246 (1958) ("Founded on physical power, the in rem jurisdiction of a state court is limited by the extent of its power and by the coordinate authority of sister States. The basis of the jurisdiction is the presence of the subject property within the territorial jurisdiction of the forum State." (footnote and citation omitted)). But seeing that our interpretation of NRS Chapter 207 is dispositive of Grundy's civil forfeiture and declaratory relief claims, we will not address the jurisdictional issue further.

“In Nevada, imposition of a constructive trust requires: (1) [that] a *confidential relationship* exists between the parties; (2) retention of legal title by the holder thereof against another would be inequitable; and (3) the existence of such a trust is essential to the effectuation of justice.” *Waldman v. Maini*, 124 Nev. 1121, 1131, 195 P.3d 850, 857 (2008) (alteration in original) (emphasis added) (internal quotation marks omitted).

Wilson argues, and we agree, that the first element is not met because Grundy has not proven the existence of a confidential relationship with Sadie. This court has explained that

[A] confidential relationship may arise by reason of kinship or professional, business, or social relationships between the parties. Such a relationship “*exists when one party gains the confidence of the other and purports to act or advise with the other’s interests in mind*; it may exist although there is no fiduciary relationship; it is particularly likely to exist when there is a family relationship or one of *friendship*.” When a confidential relationship exists, the person in whom the *special trust* is placed owes a duty to the other party similar to the duty of a fiduciary, requiring the person to act in good faith and with due regard to the interests of the other party.


*Perry v. Jordan*, 111 Nev. 943, 947, 900 P.2d 335, 337-38 (1995) (emphases added) (citations omitted) (quoting *Kudokas v. Balkus*, 103 Cal. Rptr. 318, 321 (Ct. App. 1972)). Sadie and Grundy’s relationship, as described in the record, appears inapposite to the special relationships described in *Perry*. Grundy testified that she feared Sadie due to her allegedly coercive and intimidating presence within Raymond’s prostitution ring. Grundy also testified that she had not seen Sadie since about 2011, seven years before the constructive trust was supposedly established. Grundy cites to no



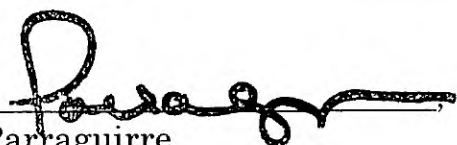
contravening evidence from the record demonstrating that she placed a “special trust” in Sadie such that a confidential relationship existed at the time of the 2018 Judgment.<sup>3</sup> Thus, Grundy cannot prevail on her constructive trust claim and was not entitled to summary judgment on this ground.

In sum, we conclude that entry of summary judgment in favor of Grundy and denial of summary judgment to Wilson was error. There are no facts that show Grundy was entitled to judgment as a matter of law on any of her claims. Instead, the facts demonstrate that Wilson is entitled to summary judgment. Accordingly, we

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

  
\_\_\_\_\_, J.  
Herndon

  
\_\_\_\_\_, J.  
Lee

  
\_\_\_\_\_, J.  
Parraguirre

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<sup>3</sup>Even if Grundy did point to such evidence, it appears that the 2018 Judgment committed the same legal errors as the underlying order in finding Grundy was entitled to forfeiture of the California Properties under NRS Chapter 207. Thus, it is doubtful that Sadie could have held the properties in constructive trust for Grundy following entry of the 2018 Judgment. However, given that the 2018 Judgment is not the subject of this appeal, we need not address it further.

cc: Hon. Nancy L. Alf, District Judge  
TRILAW  
Flangas Law Firm, Ltd.  
Eighth District Court Clerk