FILED
10/28/2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAS VEGAS METROPOLITAN POLICE DEPARTMENT AND CCMSI, Appellants, vs. CHARLES COOKS, Respondent.	No. 91340-COA

ORDER OF AFFIRMANCE

Las Vegas Metropolitan Police Department (LVMPD) and its third-party administrator CCMSI appeal from a district court order granting a petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Hon. Tina Talim, Judge.

Respondent Charles Cooks was diagnosed with COVID-19 and pneumonia in 2021 while employed as a corrections sergeant by LVMPD, his employer since 2007. Cooks filed a claim for workers' compensation benefits, which CCMSI denied, reasoning that Cooks did not appear to have sustained a valid, industrial exposure to COVID-19 or any communicable disease. A hearing officer affirmed the denial, and Cooks appealed. Cooks later sought reconsideration of the claim denial, and CCMSI declined to take further action until Cooks' appeal was resolved. Cooks appealed that determination and bypassed a hearing officer.

Cooks thereafter requested the insurer accept his claim pursuant to NRS 617.455, the statute that affords police officers compensation for certain "diseases of the lungs." NRS 617.455. CCMSI denied the claim, stating that NRS 617.455(1) requires a disease of the lungs to be caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and

in the course of employment to be compensable. Cooks appealed and again bypassed a hearing officer.

Cooks' appeals were consolidated before an appeals officer. The parties disputed whether Cooks had a compensable lung disease under NRS 617.455 (2017) (amended 2025). Cooks maintained that he qualified for compensation under NRS 617.455(5), which provided that a disease of the lungs "is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer . . . for 2 years or more before the date of disablement if the disease is diagnosed and causes the disablement" during the course of that employment. By contrast, appellants argued, in relevant part, that Cooks was not entitled to the conclusive presumption that his condition was caused by his employment because that subsection cannot be read in isolation from the rest of the statute, which required exposure to heat, smoke, fumes, tear gas or any other noxious gases for a disease of the lung to be compensable.

The appeals officer affirmed the insurer's claim denial. The appeals officer determined that Cooks failed to establish he was entitled to the conclusive presumption that his lung diseases arose out of his employment because he was not exposed to heat, smoke, fumes, tear gas or any other noxious gases, as required by NRS 617.455(1). Cooks then petitioned for judicial review, maintaining that he satisfied subsection 5's requirements entitling him to the conclusive presumption that his lung diseases arose out of and in the course of his employment. The district court reversed the appeals officer's decision and granted Cooks' petition. This appeal followed.

Appellants now challenge the district court's grant of Cooks' petition for judicial review. "On appeal, this court's role is the same as the

district court's: to review an appeals officer's decision for clear error or arbitrary abuse of discretion." *Las Vegas Metro. Police Dep't v. Holland*, 139 Nev. 96, 98, 527 P.3d 958, 962 (2023) (internal quotation marks omitted). But we "independently review the appeals officer's purely legal determinations, including those of statutory construction." *Id.*

Following the underlying proceedings in this case, the legislature passed Senate Bill 7 (S.B. 7), which amended the at-issue provisions of NRS 617.455. The amended NRS 617.455(5) provides that "a disease of the lungs is *not required to be caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases* and is conclusively presumed to have arisen out of and in the course of the employment" of a person who meets the full-time and continuous service requirements. 2025 Nev. Stat., ch. 13, § 1, at 187 (36th Spec. Sess. 2025) (emphasis added). Further, the amended NRS 617.455(1) explicitly exempts from its exposure requirement individuals who satisfy subsection 5's conclusive presumption. 2025 Nev. Stat., ch. 13, § 1, at 186 (36th Spec. Sess. 2025). Section 2 of S.B. 7 provides that "[t]he amendatory provisions of section 1 of this act apply retroactively to claims filed on or before the effective date of this act." 2025 Nev. Stat., ch. 13, § 2, at 188 (36th Spec. Sess. 2025). Therefore, the amended version of NRS 617.455 applies to Cooks' claim. *Pub. Emps.' Benefits Program v. Las Vegas Metro. Police Dep't*, 124 Nev. 138, 155, 179 P.3d 542, 553 (2008) ("[W]hen the Legislature intends retroactive application, it is capable of stating so clearly.").

Based on the amendments to NRS 617.455, Cooks established a compensable occupational lung disease claim under subsection 5 because he demonstrated he had been working as a police officer since 2007, and he was diagnosed during his employment in 2021 with COVID-19 and pneumonia, conditions his physician opined were diseases of the lungs. The amendment to

NRS 617.455 had not yet passed at the time the appeals officer considered Cooks' claim, but her interpretation of the statute is erroneous in light of the amendment, which the legislature expressly intended to be retroactive. The district court in this case construed the at-issue provisions in NRS 617.455 consistent with the recent amendments to those provisions wherein the legislature declared that a disease of the lungs need not be caused by exposure to heat, smoke, fumes, or noxious gases for a police officer 's disease of the lungs to be compensable. Accordingly, the district court correctly granted Cooks' petition for judicial review. We, therefore,

ORDER the judgment of the district court AFFIRMED.[1]

Bulla, C.J.

Gibbons, J.

Westbrook, J.

cc: GGRM Law Firm
Hooks Meng & Clement
Hon. Tina Talim, District Judge
Janet Trost, Settlement Judge
Eighth District Court Clerk

[1]To the extent that appellants' cursory reference to Cooks' predisposing conditions in the fact section of their opening brief can be construed as an argument that he was precluded from receiving benefits, we conclude that issue was not cogently argued and, therefore, we need not address it. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues an appellant fails to cogently argue).