IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM GROOMER,
Appellant,
vs.
DIVISION OF INDUSTRIAL RELATIONS
Respondent.

No. 39693

FILED

FEB 18 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order, entered on judicial review, which affirms an administrative decision that appellant William Groomer is not entitled to workers' compensation benefits from the Nevada uninsured employers' claim fund (UECF) because he was injured out of state.

Groomer first contends that the workers' compensation statute in effect when he was injured, NRS 616C.220 (1997), is ambiguous. We disagree.

Construction of a statute is a question of law subject to de novo review.[1] This court has long held that statutes should be given their plain meaning.[2] This court is "not empowered to go beyond the face of [a] statute to lend it a construction contrary to its clear meaning."[3]

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[1]State, Dep't of Mtr. Vehicles v. Lovett, 110 Nev. 473, 476, 874 P.2d 1247, 1249 (1994).

[2]Alsenz v. Clark Co. School Dist., 109 Nev. 1062, 1064, 865 P.2d 285, 286 (1993).

[3]Reinkemeyer v. Safeco Ins. Co., 117 Nev. 44, 50, 16 P.3d 1069, 1072 (2001).

Based on its plain meaning, we conclude that NRS 616C.220(1)(b) requires a Nevada employee to be injured "in this state" in order to receive compensation from the UECF.[4] Despite the harsh result for Groomer in this particular case, we are not willing to go beyond the face of the statute to lend it a construction contrary to its clear meaning.

Groomer next argues that NRS 616C.220 violates equal protection because the statutory classification, which treats an employee working for an uninsured employer differently when injured "in this state," as opposed to out-of-state, does not have a rational basis. We disagree.

Because the statutory classification in NRS 616C.220 does not affect a fundamental right, we apply the rational basis test. Under that test, legislation will be upheld so long as it is rationally related to a

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[4]NRS 616C.220(1) (1997) states:

> 1. An employee may receive compensation from the [UECF] if:
>
> (a) He was hired in this state or he is regularly employed in this state;
>
> (b) He suffers an accident or injury in this state which arises out of and in the course of his employment;
>
> (c) He files a claim for compensation with the system pursuant to NRS 616C.200;
>
> (d) He files written notice with the division; and
>
> (e) He makes an irrevocable assignment to the division of a right to be subrogated to the rights of the injured employee pursuant to NRS 616C.215.

legitimate governmental interest.[5] If there is any reasonably conceivable state of facts that could provide a rational basis for a statutory classification, the classification will be upheld against an equal protection challenge.[6]

In this case, the legislature amended the statute to include the "in this state" requirement because an employee working for an uninsured employer and injured out of state could file a claim and recover compensation in the state where the injury occurred.[7] The legislature relied in part on Nevada's existing statute allowing an out-of-state employee who regularly worked in Nevada and who was injured in Nevada to receive compensation from the UECF. We conclude that, when the legislature made the classification at issue, it was reasonably conceivable that an employee injured out of state could file a claim where the injury occurred and the legislature, desiring to reduce claims against the UECF, limited claims to persons injured in Nevada.

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[5]See Gaines v. State, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000).

[6]F.C.C. v. Beach Communications, Inc., 508 U.S. 307, 313 (1993) (concluding that a legislative choice is not subject to courtroom fact finding and may be based on rational speculation unsupported by evidence or empirical data).

[7]See AB 165, Fiscal Note, 67th Sess. (Nev. 1993) (where it was recommended that the phrase "in this state" be added to clarify that an employee injured out of state while working for an uninsured employer must file his claim or bring action against his employer in the state where the injury occurred); see also AB 165, Min. of the Ass. Comm. on Labor and Management, 67th Sess. (Nev. March 4, 1993). Cf. NRS 616C.220(2) (2001) (where the legislature subsequently removed the "in this state" requirement).

We conclude that the classification, although based on a mistaken belief, is rationally related to a legitimate government interest, i.e., preserving the UECF. The rationale is not negated simply because Groomer was injured in a state that does not permit out-of-state employees to file workers' compensation claims for injuries sustained in that state. The legislature, not the courts, is the proper entity to consider amendments to the statute to address such situations. Given the strong presumption of constitutionality, we conclude that NRS 616C.220 does not violate equal protection.[8] Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Shearing, C.J.

Becker, J.

Gibbons, J.

cc: Hon. Michael R. Griffin, District Judge
Nevada Attorney for Injured Workers/Carson City
Robert A. Kirkman
Carson City Clerk

[8]Having considered Groomer's remaining argument regarding due process, we conclude it lacks merit.