

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOYD HADLOCK,  
Appellant,

vs.

PUBLIC AGENCY COMPENSATION  
TRUST (PACT), A SELF-INSURED  
ASSOCIATION, AND ELKO COUNTY,  
Respondents.

EMPLOYERS INSURANCE COMPANY  
OF NEVADA, A MUTUAL COMPANY,  
AND CITY OF ELKO,  
Appellants,

vs.

BOYD HADLOCK; PUBLIC AGENCY  
COMPENSATION TRUST (PACT), A  
SELF-INSURED ASSOCIATION; AND  
ELKO COUNTY,  
Respondents.

No. 40145

**FILED**

OCT 18 2005

JANETIE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Reed*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a petition for judicial review in a workers' compensation case. Second Judicial District Court, Washoe County; Peter I. Breen, Judge.

Boyd Hadlock served as a City of Elko patrolman for fourteen years in the 1960s and 1970s. In 1992, the sheriff of Elko County hired Hadlock for the position of "civil process server," which Hadlock held for seven years until suffering a heart attack. Hadlock's duties consisted of serving civil papers, most of which could be served by a civilian, but some of which could only be served by a deputy sheriff. On this basis, an appeals officer concluded that Hadlock was a police officer and that Elko County and Public Agency Compensation Trust (PACT) were responsible

for Hadlock's benefits. Elko County and PACT sought judicial review, and the district court granted the petition in part, holding that a civil process server was not a police officer and, therefore, the City of Elko and Employers Insurance Company of Nevada (EICON) were responsible for payment of Hadlock's benefits. All parties appealed, but Elko County and PACT's appeals were dismissed for lack of jurisdiction.<sup>1</sup>

City of Elko, EICON, and Hadlock argue that the district court erred by improperly reweighing the evidence and substituting its own opinion for that of the appeals officer. This court's function in reviewing an administrative decision is identical to the district court's.<sup>2</sup> A reviewing court shall not substitute its judgment for that of an agency regarding a question of fact unless the agency's decision was clearly erroneous or an arbitrary abuse of discretion.<sup>3</sup>

We conclude that the appeals officer's decision was clearly erroneous because substantial evidence does not support that Hadlock's position as a civil process server qualified him as a "police officer" for purposes of NRS 617.135 and NRS 617.457. Most of Hadlock's duties did not require deputy status. Hadlock made no arrests and did not patrol. His dress, equipment, badge, and car distinguished him from deputy sheriffs. Hadlock was permitted to carry a firearm only because of his concealed weapon permit, not because of his position as a civil process

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<sup>1</sup>Hadlock v. PACT, Docket No. 40145 (Order Dismissing Appeals of PACT and Elko County and Reinstating Briefing, December 5, 2003).


<sup>2</sup>Collett Electric v. Dubovik, 112 Nev. 193, 196, 911 P.2d 1192, 1195 (1996).

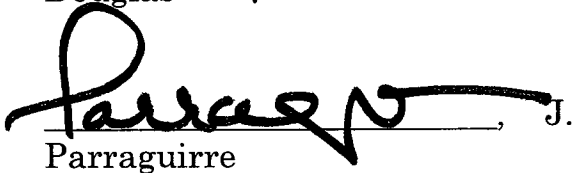
<sup>3</sup>NRS 233B.135(3).

server. Administratively, the civil process server position was treated very differently from deputy sheriffs. Thus, we conclude that the appeals officer's finding that Hadlock was a deputy sheriff was clearly erroneous, and that the district court did not err in granting Elko County and PACT's petition for judicial review.<sup>4</sup> We also conclude that the district court did not err in applying the conclusive presumption in NRS 617.457 and the last injurious exposure rule to Hadlock, fixing responsibility for his claim on the City of Elko and EICON. In light of our conclusion, we need not address Elko County and PACT's challenge to the constitutionality of NRS 617.457. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 \_\_\_\_\_, C.J.  
Becker

 \_\_\_\_\_, J.  
Douglas

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

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<sup>4</sup>We have considered Hadlock's arguments that he was a de facto deputy sheriff, a status allegedly approved and ratified by Sheriff Neil Harris, and that Elko County should be estopped from asserting otherwise, but we conclude that they are without merit.

cc: Hon. Peter I. Breen, District Judge  
Badger & Baker  
Beckett & Yott, Ltd./Carson City  
Piscevich & Fenner  
Thorndal Armstrong Delk Balkenbush & Eisinger/Reno  
Brenda J. Erdoes  
Washoe District Court Clerk