

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Mandamus

COURT MINUTES

November 03, 2022

A-22-858609-W Republican National Committee, Plaintiff(s)
vs.
Clark County, Defendant(s)

November 03, 2022 3:00 AM Minute Order

HEARD BY: Williams, Timothy C. **COURTROOM:** Chambers

COURT CLERK: Christopher Darling /cd
Victoria Mercer

JOURNAL ENTRIES

After review and consideration of the points and authorities on file herein, and oral argument of counsel, the Court determines as follows:

Pursuant to N.R.S. 293B.360, the Court finds insufficient evidence to establish that, by hiring temporary employees, the County created a "mail ballot inspection board" requiring "representation from all political parties as equally as possible." N.R.S. 293B.360(2). The County, in its discretion, never created a board nor appointed the temporary employees as board members. Additionally, the County did not delegate its own discretion (nor its decision-making power) to a purported mail ballot inspection board. Instead, the County simply hired temporary employees, pursuant to CCC 2.40.010(p).

The Court arrives at this conclusion after considering the undisputed fact that the Nevada Legislature outlines the procedures, mandates, and laws for the state's elections. As such, temporary employees do not have power to make decisions on ballot-counting procedures. Consequently, the temporary employees simply perform ministerial functions for the County, and by extension, the State of Nevada.

Additionally, the Court does not find persuasive Petitioner's argument that because the temporary employees are "not . . . entitled to any of the benefits of employment to which other employees are entitled" those same temporary employees are not "employees in the clerk's office" under N.R.S. 293.269927. The Court bases its finding upon the County's own records, which provided that the County classified the temporary employees as "Temp Agency" workers. The County hired these workers from a temporary employment agency. Consequently, the Court finds that nothing bars the

temporary employees from also being classified as County employees. The Court finds that it is a big stretch to classify temporary employees as board members on a board that the County Registrar never created. Thus, the temporary workers' nominal exercise of discretion in performing a job-related task does not rise to the level of decision making typically expected from a board.

The Court finds that the temporary employees are County employees, for purposes of N.R.S. 293.269927, but the temporary employees do not constitute a "board" for purposes of N.R.S. 293B.360. Further, the temporary employees do not constitute a "board" under commonly accepted definitions. *E.g., Black's Law Dictionary* 141 (8th ed. 2004). Finally, since the County complied with N.R.S. Chapter 293, Petitioner cannot establish a likelihood of success on the merits. Consequently, the Court finds injunctive relief improper.

As a result, *Petitioner's Motion to Lift Stay*, filed October 27, 2022, is **DENIED**. Additionally, *Petitioner's Application for Writ of Mandamus or Injunction Directing the Clark County Registrar to Comply With NRS 293B.360(2)*, filed October 27, 2022, is **DENIED**.

Counsel on behalf of Clark County shall prepare a detailed Order, Findings of Facts, and Conclusions of Law, based not only on the foregoing Minute Order but also on the record on file herein. This is to be submitted to adverse counsel for review and approval and/or submission of a competing Order or objections prior to submitting to the Court for review and signature.

CLERK'S NOTE: A copy of this Minute Order has been electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System. /cd 11-3-2022/