

1 **NEVADA LEGAL SERVICES**

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9 Attorney for Petitioner: EUGENIO DOLORES

Electronically Filed  
Jan 30 2017 04:18 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

10 IN THE SUPREME COURT OF THE STATE OF NEVADA

11 EUGENIO DOLORES,

12 Appellant,

13 vs.

Supreme Court No. 72126

District Court Case No. A732941

14 EMPLOYMENT SECURITY DIVISION,

15 STATE OF NEVADA and RENEE

16 OLSON, in her capacity as Administrator

17 of the EMPLOYMENT SECURITY

18 DIVISION; KATIE JOHNSON, in her

19 capacity as Chairperson of the

20 EMPLOYMENT SECURITY DIVISION;

21 BOARD OF REVIEW,

22 Respondents.

**DOCKETING STATEMENT**

23 1. Identity of court below: Eight Judicial District Court, Department 21, Clark  
24 County, Judge Valerie Adair, Docket No. A732941.

25 2. Attorney filing this docketing statement:

26 Dawn R. Miller, Esq.

27 Nevada Legal Services, Inc.

28 530 South Sixth Street

Las Vegas, NV 89101

(702) 386-0404, extension 111

Client: EUGENIO DOLORES, Appellant

3. Attorneys representing respondents:

Attorney for Employment Security Division, Cynthia Jones, and Katie Johnson:

Laurie L. Trotter, Esq.

1340 S. Curry St.  
Carson City, NV 89703  
(775) 684-6317

Respondent Southwest Airlines Co. did not participate in the District Court proceedings, and to the best of Appellant's knowledge has not retained an attorney for this appeal.

4. Nature of the disposition below: Review of District Court Decision.

5. This appeal does not raise issues concerning child custody, venue, adoption, termination of parental rights, injunctive relief or a TRO, or juvenile matters.

6. There are no appeals or original proceedings related to this appeal pending before the Court.

7. There are no appeals or original proceedings in other courts related to this appeal.

8. Nature of the action: Appellant filed a Petition for Judicial Review in the Eighth Judicial District Court appealing the decision of the Employment Security Division to deny his claim for unemployment benefits. On December 15, 2016, the Honorable Judge Valerie Adair entered a decision denying Dolores's Petition for Judicial Review.

9. Issues on Appeal: (A) An employee who has no independent intent to resign and is presented with a quit-or-be-fired option from the employer, has not voluntarily quit under NRS 612.380 and (B) When a new law or policy renders an employee ineligible to remain employed, the employee has *good cause* to quit.

10. Appellant is not aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal.

11. This appeal does not challenge the constitutionality of a statute.

12. This appeal does involve a substantial issue of first impression. This appeal involves defining good cause to voluntarily quit work pursuant to N.R.S. §612.380 affecting eligibility for unemployment benefits. Currently, there is no legal precedent defining good cause to voluntarily quit. Specifically, this case involves the question of when an employee who has no independent intent to resign, and is presented with a quit-or-be-fired option from their employer, whether the employee *voluntarily* quit under NRS 612.380. Also, this appeal involves

1 the question of when a new policy renders an employee ineligible to remain employed, the  
2 employee has *good cause* to quit.

3 13. This matter should be retained by the Supreme Court. Pursuant to NRAP 17(14)  
4 the Supreme Court shall hear and decide matters raising as a principle issue a question of  
5 statewide public importance. Currently, there is no legal precedent defining good cause to  
6 voluntarily quit work. The issue before this Court effects unemployment benefits eligibility for  
7 all Nevada employees.

8 14. This action did not proceed to trial in the district court.

9 15. Appellant does not intend to file a motion to disqualify or have a justice recuse  
10 him or herself from participation in this appeal.

11 16. Date of entry of written judgment or order appealed from: December 16, 2016.  
12 (Copy of Order Denying Petition for Judicial Review attached as Exhibit 1)

13 17. Date of written notice of entry of judgment or order served: December 20, 2016.  
14 (Copy of Notice of Entry of Order attached as Exhibit 1)

15 a. Service was by mail.

16 18. The time for filing the notice of appeal was not tolled by a post-judgment motion.

17 19. Date Notice of Appeal filed: January 3, 2017.

18 20. Statue or rule governing the time limit for filing the notice of appeal: NRAP 4(a).

19 21. Specify the statute or other authority granting this court jurisdiction to review the  
20 judgment or order appealed from: NRS 612.530(6), NRAP 3A(b)(1). NRS 612.530(6) provides  
21 for appeals of final orders of district courts to the Supreme Court following review of an agency  
22 determination granting or denying unemployment benefits in the district court in the manner of  
23 civil appeals. Civil appeals may be taken from a final order pursuant to NRAP 3A(b)(1).

24 22. List all parties involved in the action in the district court:

25 a) Appellant/Petitioner: Eugenio Dolores

26 Respondents: Employment Security Division, State of Nevada; Renee Olson in  
27 her capacity as Administrator of the Employment Security Division; Katie  
28 Johnson in her capacity as Chairperson of the Employment Security Division

1 Board of Review at the time the Board of Review rendered a decision; Southwest  
2 Airlines Co. as the employer.

3  
4 b) The employer, Southwest Airlines Co., was served the Notice of Appeal and  
5 Case Appeal Statement but refrained from participating.  
6

7 23. Appellant, Eugenio Dolores, challenged the denial of his claim for unemployment  
8 benefits. He appealed the agency determination finding him ineligible for benefits to the district  
9 court. He filed a timely Petition for Judicial Review. The district court denied the Petition for  
10 Judicial Review. (See Decision and Order attached as Exhibit 1)

11 24. The order appealed from was a final order and adjudicated all the claims alleged  
12 below and the rights and liabilities of all the parties to the action below.

13 25. See the following attachments:

14 Exhibit 1: Notice of Entry of Decision & Order; with Decision & Order attached  
15

16 **VERIFICATION**

17 I declare under penalty of perjury that I have read this docketing statement, that the  
18 information provided in this docketing statement is true and complete to the best of my  
19 knowledge, information and belief, and that I have attached all required documents to this  
20 docketing statement.

21 DATED this 30<sup>th</sup> day of January, 2017.

22 Respectfully submitted,  
23 NEVADA LEGAL SERVICES, INC.

24 By: /s/ Dawn R. Miller  
25 DAWN R. MILLER, ESQ.  
26 Nevada Bar No. 10933  
27 530 S. Sixth Street  
28 Las Vegas, Nevada 89101  
(702) 386-0404 ext 111  
dmiller@nslaw.net  
Attorney for Appellant

1  
2 **CERTIFICATE OF MAILING**

3 I hereby certify that on this 30<sup>th</sup> day of January, 2017, I served the foregoing  
4 DOCKETING STATEMENT, upon the following person(s), by depositing a copy of same in a  
5 sealed envelope in the United States Mail, postage pre-paid, to the following:

6 Laurie L. Trotter, Esq.  
7 State of Nevada, DETR/ ESD  
8 1340 S. Curry St.  
9 Carson City, NV 89703  
10 (775) 684-6317

11 DATED this 30<sup>th</sup> day of January, 2017.

12 By: /s/ Dawn R. Miller  
13 DAWN R. MILLER, ESQ.  
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EXHIBIT

A

1 **NEOJ**  
2 LAURIE L. TROTTER, ESQ.  
3 Nevada State Bar No. 8696  
4 STATE OF NEVADA, Department  
5 of Employment, Training & Rehabilitation (DETR)  
6 Employment Security Division (ESD)  
7 1340 South Curry Street  
8 Carson City, NV 89703  
9 Telephone: (775) 684-6317  
10 Facsimile: (775) 684-6344  
11 *Attorney for DETR/ESD*

7 **DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

9 EUGENIO DOLORES,  
10  
11 Petitioner,

CASE NO. A732941

DEPT. NO. XXI

11 vs.

12 EMPLOYMENT SECURITY DIVISION,  
13 STATE OF NEVADA; RENEE OLSON,  
14 in her capacity as Administrator of the  
15 EMPLOYMENT SECURITY DIVISION;  
16 KATIE JOHNSON, in her capacity as  
17 Chairperson of the EMPLOYMENT  
SECURITY DIVISION [BOARD OF  
REVIEW]; and SOUTHWEST AIRLINES  
CO., as the Employer,

Respondents.

18 **NOTICE OF ENTRY OF ORDER DENYING PETITION FOR JUDICIAL REVIEW**

19 **PLEASE TAKE NOTICE** that on the 15<sup>th</sup> day of December, 2016, the Court  
20 entered its Order Denying Petition for Judicial Review in the above-entitled action. A copy of  
21 said Order is attached hereto.

22 **DATED** this 16<sup>th</sup> day of December, 2016.

23   
24 LAURIE L. TROTTER, ESQ.

*Attorney for Nevada ESD Respondents*

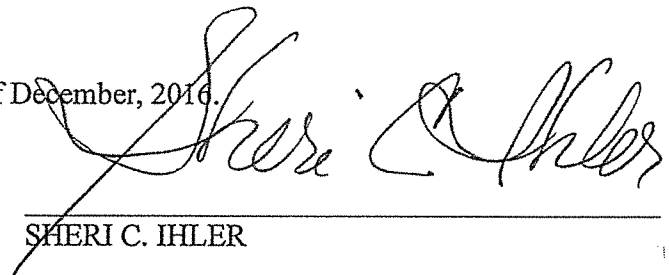
1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the State of Nevada,  
3 over the age of 18 years; and that on the date hereinbelow set forth, I served a true and correct  
4 copy of the foregoing NOTICE OF ENTRY OF ORDER DENYING PETITION FOR  
5 JUDICIAL REVIEW, *by either* electronic means (N.E.F.C.R. Administrative Order 14-2), as  
6 indicated by an email address set forth below, *and/or* by placing the same within an envelope  
7 which was thereafter sealed and deposited for postage and mailing with the State of Nevada Mail  
8 at Carson City, Nevada, addressed for delivery as follows:

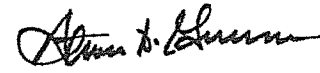
9 Dawn R. Miller, Esq.  
10 Nevada Legal Services, Inc.  
11 530 South Sixth Street  
12 Las Vegas, NV 89101  
13 dmiller@nlslaw.net

14 Southwest Airlines Co.  
15 1845 Borman Court  
16 St. Louis, MO 63146

17 DATED this 16<sup>th</sup> day of December, 2016.

18   
19 SHERI C. IHLER  
20  
21  
22  
23  
24





CLERK OF THE COURT

1 **ORDD**

2 LAURIE L. TROTTER, ESQ.  
3 Nevada State Bar No. 8696  
4 STATE OF NEVADA, Department of  
5 Employment, Training & Rehabilitation (DETR),  
6 Employment Security Division (ESD)  
7 1340 South Curry Street  
8 Carson City, NV 89703  
9 Telephone No.: (775) 684-6317  
10 Facsimile No.: (775) 684-6344  
11 *Attorney for DETR/ESD*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 EUGENIO DOLORES,

10 Petitioner,

11 vs.

CASE NO.: A732941

DEPT. NO.: XXI

12 EMPLOYMENT SECURITY DIVISION,  
13 STATE OF NEVADA; RENEE OLSON,  
14 in her capacity as Administrator of the  
15 EMPLOYMENT SECURITY DIVISION;  
16 KATIE JOHNSON, in her capacity as  
17 Chairperson of the EMPLOYMENT  
18 SECURITY DIVISION [BOARD OF  
19 REVIEW]; and SOUTHWEST AIRLINES  
20 CO., as the Employer,

21 Respondents.

22 **ORDER DENYING PETITION FOR JUDICIAL REVIEW**

23 **THIS MATTER** came before the Court for decision In Chambers on September  
24 19, 2016. The parties were not present. The Court has reviewed the Record on Appeal,  
20 Petitioner's Opening Brief, Respondent Administrator, State of Nevada Department of  
21 Employment, Training and Rehabilitation, Employment Security Division's Answering Brief,  
22 and Petitioner's Reply Brief, and all of the other documents contained in the file, and being fully  
23 informed, HEREBY FINDS:

1 This Court is confined to the record on appeal before the Board of Review;

2 This Court may not substitute its opinion regarding the matters of weight or  
3 credibility of evidence regarding issues of fact for that of the Administrative Tribunal (referee)  
4 and Board of Review. *State Employment Sec. Dept. v. Weber*, 100 Nev. 121, 124, 676 P.2d  
5 1318, 1320 (1984);

6 The record on appeal contained substantial evidence to support the referee and the  
7 Board of Review's February 12, 2016 decision;

8 The decision of the agency is consistent with Nevada's statutory and case law;

9 The Petitioner was afforded a full and fair hearing and not denied due process of  
10 law.

11 The Board of Review's decision was neither arbitrary or capricious, nor clearly  
12 erroneous in view of the reliable, probative and substantial evidence in the whole record, and  
13 thus the court will not reverse that decision;

14 Based upon the above findings and GOOD CAUSE APPEARING THEREFOR,

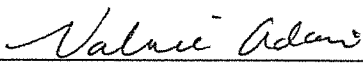
15 **IT IS HEREBY ORDERED** that the decision of the Board of Review is  
16 **AFFIRMED** and the Petition for Judicial Review is **DENIED**.

17 DATED this 6<sup>th</sup> day of December, 2016.

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HONORABLE VALERIE ADAIR  
DISTRICT JUDGE

21

Prepared and Submitted by:

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LAURIE L. TROTTER, ESQ.

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Attorney for Nevada ESD Respondents

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