

IN THE SUPREME COURT OF THE STATE OF NEVADA

CRISTINA PAULOS,
Appellant,
vs.
FCH1, LLC, A NEVADA LIMITED
LIABILITY COMPANY; LAS VEGAS
METROPOLITAN POLICE
DEPARTMENT, A GOVERNMENT
ENTITY; JEANNIE HOUSTON; AN
INDIVIDUAL; AND AARON BACA, AN
INDIVIDUAL,
Respondents.

No. 74912

FILED

JUL 06 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER

This is an appeal from an order granting summary judgment. Having considered the motion filed by counsel for appellant, this court has determined that that this appeal is appropriate for placement in this court's pro bono appellate program. By this order, the court expresses no opinion as to the merits of this appeal.

Appellant, who is proceeding in forma pauperis, informs this court that she has qualified for free legal assistance with the Legal Aid Center of Southern Nevada, and has already been appointed pro bono counsel. Accordingly, we direct the clerk of this court to assign this appeal to the pro bono appellate program.

We have further concluded that our review of the complete record is warranted. NRAP 10(a)(1). Accordingly, within 30 days from the date of this order, the clerk of the district court shall transmit to the clerk of this court a certified copy of the trial court record in District Court Case No. A-15-716850-C. See NRAP 11(a)(2) (providing that the complete "record shall contain each and every paper, pleading and other document filed, or

submitted for filing, in the district court," as well as "any previously prepared transcripts of the proceedings in the district court"). The record shall not include any exhibits filed in the district court. NRAP 11(a)(1). Appellant shall have 45 days from the filing of the district court record to file and serve the opening brief.

Because the trial court record has been ordered in this appeal, the parties are permitted, but not required, to cite to that record in lieu of filing joint or separate appendices with their briefs. *Compare* NRAP 10(a) (governing transmission of trial court record), *with* NRAP 30 (setting forth requirements for appendices). Although this matter will be scheduled for oral argument upon completion of briefing, counsel may notify this court in writing if counsel believes that oral argument is undesirable or unnecessary.

It is so ORDERED.

 C.J.

cc: Lewis Roca Rothgerber Christie LLP/Las Vegas
Blut Law Group, APC
Marquis Aurbach Coffing
Moran Brandon Bendavid Moran
Eighth District Court Clerk
Legal Aid Center of Southern Nevada, Barbara E. Buckley,
Executive Director
Anne R. Traum, Coordinator, Appellate Litigation Section,
Pro Bono Committee, State Bar of Nevada
Kelly Dove

This is a negligence and false imprisonment action arising out of appellant's arrest. Respondents handcuffed and detained appellant on hot asphalt that resulted in severe burns to her body. Actions were pursued in federal and then state court. The district court denied LVMPD's motion to dismiss. LVMPD moved for reconsideration based on the federal district court's summary judgment finding qualified immunity, both because the force used was not excessive and because the constitutional right had not been clearly established. The Ninth Circuit affirmed solely on the ground that the constitutional right was not clearly established. On remand, the state district court granted the motion to reconsider on grounds of issue preclusion.

Appellant raises two issues: When a district court's decision rests on alternative grounds and an appellate court affirms on just one ground, is the district court's decision preclusive for the alternative ground not relied upon? And for issue preclusion, is the "reasonableness" of a seizure under the Fourth Amendment of the United States Constitution the same issue as the exercise of "reasonable care" for a negligence claim under state common law?