

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY DEPARTMENT OF
AVIATION, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,
Appellant,
vs.
SOUTHERN NEVADA LABOR
MANAGEMENT COOPERATION
COMMITTEE, BY AND THROUGH ITS
TRUSTEES TERRY MAYFIELD AND
CHRIS CHRISTOPHERSEN; AND
OFFICE OF THE LABOR
COMMISSIONER,
Respondents.

No. 83252

FILED

AUG 23 2021

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

ORDER DENYING STAY

This is an appeal from a district court order granting a petition for judicial review after determining that certain work done at the McCarran International Airport was subject to prevailing wage laws.

Appellant filed an emergency motion for stay and/or injunction pending appeal, seeking to prevent respondent Office of the Labor Commissioner from proceeding with this matter on remand from the district court. A temporary stay was issued on July 26, 2021, pending our receipt and consideration of any opposition from respondents. Respondent Southern Nevada Labor Management Cooperation Committee (LMCC) has timely filed an opposition, and thus, we now consider the stay motion.

Appellant first argues that, as a governmental agency, it is entitled to a stay as of right under *Clark County Office of Coroner/Medical Examiner v. Las Vegas Review-Journal*, 134 Nev. 174, 177, 415 P.3d 16, 19

(2018), and NRCP 62(e). As noted in *Clark County Office of Coroner/Medical Examiner*, under NRCP 62(d) and (e), “state and local government appellants are generally entitled to a stay of a money judgment pending appeal, without needing to post a supersedeas bond or other security.” *Id.* at 177, 415 P.3d at 19. Not only does that case not *mandate* a stay in all circumstances, however, but also the general rule stated therein does not apply here, as appellant is not seeking to stay a money judgment. Thus, appellant’s stay motion must be evaluated under NRAP 8.

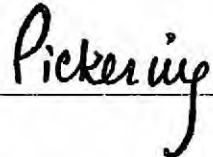
When considering a motion for a stay or injunction pending resolution of an appeal under NRAP 8, we consider the following factors: whether (1) the object of the appeal will be defeated absent a stay or injunction, (2) appellant will suffer irreparable or serious harm without a stay or injunction, (3) respondents will suffer irreparable or serious harm if a stay or injunction is granted, and (4) appellant is likely to prevail on the merits of the appeal. NRAP 8(c); *see also Fritz Hansen A/S v. Eighth Judicial Dist. Court*, 116 Nev. 650, 659, 6 P.3d 982, 987 (2000). We may also consider the public interest involved. *Clark Cty. Off. of Coroner/Med. Exam’r*, 134 Nev. at 179 n.1, 415 P.3d at 20 n.1 (2018) (Cherry, J., dissenting); *Nevada Tax Comm’n v. Mackie*, 74 Nev. 273, 276, 330 P.2d 496, 497 (1958). Having considered the motion and opposition in light of these factors, we conclude that the factors do not militate in favor of a stay.


In particular, we note that, in the stay motion, appellant’s arguments focus on postponing the Labor Commissioner’s determination of how much is owed to whom, at least until the appeal is decided and the scope of the agency proceedings is clarified. Indeed, in its opposition to appellant’s stay motion below, LMCC pointed out that “no one is arguing that workers should be given the unpaid wages while the appeal is

pending.” Further, in its opposition to the stay motion in this court, LMCC indicated that it has “stipulated that [Labor Commissioner’s] calculation will have no preclusive effect pending the appeal.” In light of this, it does not appear that the object of the appeal will be defeated or that appellant is likely to suffer irreparable injury absent a stay or injunction. *See generally Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 253, 89 P.3d 36, 39 (2004) (“[L]itigation costs, even if potentially substantial, are not irreparable harm.”). Accordingly, we deny the motion for stay; the July 26 temporary stay is vacated.

It is so ORDERED.


_____, J.
Cadish


_____, J.
Pickering


_____, J.
Herndon

cc: Hon. Kathleen E. Delaney, District Judge
Fisher & Phillips LLP
Attorney General/Carson City
Christensen James & Martin
Eighth District Court Clerk