

1 STATE OF NEVADA  
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT  
3 RELATIONS BOARD  
4

5 IN THE MATTER OF THE PETITION FOR ) ITEM NO. 504A  
6 RECOGNITION BY THE CLARK COUNTY )  
7 DEPUTY SHERIFF BAILIFFS ) CASE NO. A1-045722  
8 ASSOCIATION, F.O.P., LOCAL #1 ) DECISION

9 For the Association: Ulrich W. Smith, Esq.

10 For the County: Yolanda T. Givens, Esq.

11 STATEMENT OF THE CASE

12 On October 17, 2001, Clark County, Nevada (hereafter "Clark County") filed an  
13 "Objection to Application for Recognition of Deputy Sheriff Bailiffs Association" with the Local  
14 Government Employee-Management Relations Board (hereafter "Board").

15 On December 6, 2001, the Clark County Deputy Sheriff Bailiff's Association, F.O.P.  
16 Local #1 (hereafter "Association") filed its "Legal Brief" and on that same date, the County filed  
17 its "Pre-Hearing Statement." The Association also filed an Addendum to its Legal Brief.

18 On March 19, 2002, the Board held a hearing in this matter, noticed in accordance with  
19 Nevada's Open Meeting Law, at which time the Board heard oral arguments from counsel,  
20 received evidence, and heard testimony from two (2) witnesses, namely, Steven Morris and  
21 Raymond Visconti.

22 Post-hearing briefs were ordered from the parties and Clark County filed its brief on  
23 April 8, 2002. The Board's findings as to the objection to recognition are set forth in its  
24 Discussion, Findings of Fact and Conclusions of Law, which follow:

25 DISCUSSION

26 Opening statements were made that the Justices of the Peace manage their courtrooms  
27 with the assistance of the Court Administrator's office. The Administrator's office and the  
28 Justices themselves determine the duties, responsibilities, and tasks of the bailiffs. Clark County

1 further argued that the Justice Courts are part of the judicial branch of the government and NRS  
2 Chapter 288 does not apply to the court system personnel. They are allegedly not Clark County  
3 employees.

4 Steve Morris testified that he is the Court Administrator for the Las Vegas Justice Courts  
5 and has held that position for over three years. He was interviewed and hired by the Justices of  
6 the Peace. He testified his supervisors would be the justices themselves. He is responsible for  
7 posting vacant bailiffs' positions. Because the bailiffs report directly to the justices, the justices  
8 are also involved in the hiring process. A "Letter of Understanding and Rule of the Court" was  
9 offered as Exhibit 5, regarding the service relationship between the Justice Courts and Clark  
10 County. He stated it was because of this organization attempt by the bailiffs that caused the  
11 informal arrangement between the court system and Clark County to be memorialized in this  
12 Letter of Understanding, to assure that the bailiffs, and others, knew they were not county  
13 employees. Though the Justices determine the duties of his bailiffs, Mr. Morris would be  
14 responsible for terminating or disciplining a bailiff.

15 On cross-examination, Morris testified the county treasurer signs his paychecks and that  
16 various job postings bear the emblem of Clark County. Morris further testified that the Letter of  
17 Understanding (Exhibit 5) stated that bailiffs are appointed employees and are not subject to the  
18 hiring and firing pursuant to the Clark County Merit Personnel System and are hired and fired at  
19 the discretion of the courts. The bailiffs, however, do receive the same benefits as county  
20 employees under their collective bargaining agreement. The Association representing the county  
21 employees, NSEU, listed bailiffs as a category of employees in their collective bargaining  
22 agreement for which they could bargain for if they were county employees.

23 In response to a question by the Board, Morris stated that the justices are ultimately  
24 responsible for the hiring of their own secretaries and bailiffs, and should they "have somebody  
25 in mind, we hire that person." (Transcript of Hearing (hereafter "Tr."), p. 34.) Morris also  
26 offered that at some point in time the bailiffs were associated with the Clark County Sheriff's  
27 Office. (Tr. p. 37.) However, he stated that the Justice Courts are "constitutional courts." (Tr. p.  
28 38.) On W-2 forms, Clark County is listed as the employer but the bailiffs for the District Court

1 are also not subject to the provisions of NRS Chapter 288. He does believe the Las Vegas  
2 Municipal Court bailiffs are part of the Police Protective Association (Tr. p. 45), but their correct  
3 titles are City Marshals (Tr. p. 46). These individuals are considered city employees rather than  
4 members of the Las Vegas Metropolitan Police Dept. (Tr. p. 47.) Counsel for Clark County  
5 stated that should these bailiffs actually be employees of the county, such as the investigators for  
6 the District Attorney's Office or park police, the County would then have the right to recognize  
7 their organization. These bailiffs, however, are simply not employees of a local governmental  
8 entity according to Clark County.

9 Raymond Visconti is the Deputy Director of Human Resources for Clark County, and has  
10 been with the county management for six years. (Tr. p. 54.) He explained the relationship  
11 between the Justice Courts and Clark County as the county providing "consultative, advisory  
12 advice to Justice Court when it comes to personnel issues." (Tr. p. 55.) He further indicated  
13 there are 32 different departments in the county, 12 separate agencies, and then the District  
14 Courts and Justice Courts. (Tr. p. 56.) Visconti further stated his office prepares a list of  
15 candidates for positions within the Justice Court, but it is the Justice Court that actually does the  
16 ultimate interviewing and hiring. He further stated that in other departments in the county he has  
17 the authority to discipline and retract discipline; he cannot do so with the Justice Courts  
18 personnel. (Tr. p. 75.)

19 In support of its position, Clark County cites to Washoe Co. Probation Employees Assn.  
20 v. Washoe Co. and Washoe Co. Juvenile Ct., Order/Item No. 334 (Case No. A1-045547, May  
21 18, 1994) and Op. Engineers, Local 3, Intern. Union of Op. Engineers, AFL-CIO, v County of  
22 Lander, Order/Item No. 346A (EMRB Case No. A1-045553, November 8, 1995). These cases  
23 were offered for the proposition that control by the court is more determinative on the  
24 applicability of NRS Chapter 288 than who pays the employees' salaries.

#### 25 FINDINGS OF FACT

26 1. A Letter of Understanding now exists as to the relationship between certain Justice  
27 Courts personnel and Clark County, i.e., the services to be rendered by the County for the Justice  
28 Courts.

1           2. The Justices themselves along with the Court Administrator for the Las Vegas Justice  
2 Courts hire and fire their bailiffs.

3           3. Should a Justice wish to hire a specific person as a secretary or bailiff, he/she can do  
4 so.

5           4. The Justices themselves direct and determine the bailiffs' duties, responsibilities and  
6 tasks.

7           5. The job postings for Justice Court bailiffs are on Clark County stationery.

8           6. W-2 forms list the bailiffs' employer as Clark County, and the Clark County  
9 Treasurer signs the bailiffs' paychecks.

10          7. Bailiffs are entitled to the benefits negotiated for Clark County employees by the  
11 employees' associations.

12          8. One employee association has the bailiffs listed as a category for which they are  
13 allowed to bargain as their representative.

14          9. Bailiffs are peace officers and do receive POST training.

15          10. The Association has sought recognition by Clark County, and Clark County has  
16 objected to that recognition.

17          11. This Board has visited this issue on prior occasions, namely in the cases of Washoe  
18 Co. Probation Employees Assn. v. Washoe Co. and Washoe Co. Juvenile Ct., Order/Item No.  
19 334 (Case No. A1-045547, May 18, 1994) and Op. Engineers, Local 3, Intern. Union of Op.  
20 Engineers, AFL-CIO, v County of Lander, Order/Item No. 346A (EMRB Case No. A1-045553,  
21 November 8, 1995).

22          12. The justice courts are constitutional courts and are not a public employer subject to  
23 NRS Chapter 288.

24          13. Should any finding of fact be more properly construed as a conclusion of law, may it  
25 be so deemed.

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1 **CONCLUSIONS OF LAW**

2 1. The Local Government Employee-Management Relations Board has jurisdiction over  
3 the parties and the subject matters of the complaint on file herein pursuant to the provisions of  
4 NRS Chapter 288.

5 2. Clark County is a local government employer as defined in NRS 288.060.

6 3. The Association is an employee organization as defined by NRS 288.040.

7 4. Clark County has denied recognition of the Association as the employee  
8 representative of the bailiffs in the Las Vegas Justice Courts.

9 5. The Board has rendered decisions in similar cases, namely Washoe Co. Probation  
10 Employees Assn. v. Washoe Co. and Washoe Co. Juvenile Ct., Order/Item No. 334 (Case No.  
11 A1-045547, May 18, 1994) and Op. Engineers, Local 3, Intern. Union of Op. Engineers, AFL-  
12 CIO, v County of Lander, Order/Item No. 346A (EMRB Case No. A1-045553, November 8,  
13 1995).

14 6. That Clark County provides only job listing services for the Las Vegas Justice Courts;  
15 and the Justice Court Administrator along with the Justices do the final interviewing, hiring, and  
16 if necessary firing.

17 7. That W-2 forms for the bailiffs list their employer as Clark County, and the bailiffs'  
18 paychecks are signed and provided by the County Treasurer.

19 8. That it is the Justices that determine the duties, responsibilities and tasks of the  
20 bailiffs; the bailiffs are under the control of the Justice Courts rather than the control of Clark  
21 County.

22 9. The justice courts are constitutional courts and are not a public employer subject to  
23 NRS Chapter 288.

24 10. Should any conclusion be more properly construed as a finding of fact, may it be so  
25 deemed.

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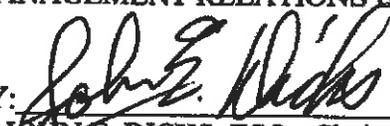
**DECISION AND ORDER**

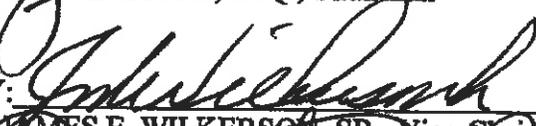
IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

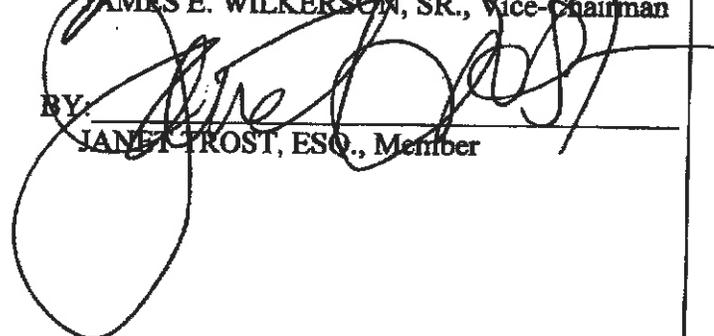
1. Clark County is not the employer of the Las Vegas Justice Court bailiffs.
2. Clark County cannot recognize the Association as the bargaining agent for the Las Vegas Justice Court bailiffs.
3. Each party is to bear its own attorney's fees and costs.

DATED this 7<sup>th</sup> day of May, 2002.

LOCAL GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD

BY:   
JOHN E. DICKS, ESQ., Chairman

BY:   
JAMES E. WILKERSON, SR., Vice-Chairman

BY:   
JANET FROST, ESQ., Member