

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT LESLIE STOCKMEIER,
Appellant,
vs.
FALLON POLICE DEPARTMENT;
CHIEF OF POLICE, FALLON, POLICE
DEPARTMENT; FALLON CITY
ATTORNEY'S OFFICE; AND MICHAEL
F. MACKEDON, FALLON CITY
ATTORNEY,
Respondents.

No. 59025

FILED

SEP 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Ingerson*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from a district court order denying a petition for a writ of mandamus. Tenth Judicial District Court, Churchill County; David A. Huff, Judge. As directed, respondents have filed a response, and appellant submitted a reply.¹

Below, appellant filed a petition for a writ of mandamus to compel respondents to provide him with a copy of all public records relating to the Fallon Police Department's investigation and arrest of appellant in 1990, and a copy of his record of criminal history. On appeal, appellant contends that the district court abused its discretion by failing to require respondents to disclose all the records related to his arrest in 1990 or by failing to require respondents to redact confidential information within a record instead of refusing to release that record. Appellant also argues that the district court abused its discretion by

¹We grant appellant's motion to file a reply to respondents' response. The clerk of this court shall file the reply provisionally received on August 30, 2012.

failing to determine exactly what records respondents refused to release and by failing to require respondents to provide him with a copy of his record of criminal history.


Having considered the record and the parties' arguments, we conclude that respondents failed to meet their burden of proving that the undisclosed records were confidential under NRS 200.3773(1).² See Reno Newspapers v. Gibbons, 127 Nev. ___, ___, 266 P.3d 623, 628 (2011) (explaining that the public entity declining to release records has the burden of proving, by a preponderance of the evidence, that the requested records are confidential or that the state's interest in not disclosing the records outweighs the public's interest in disclosure). The appellate record shows that respondents failed to provide any evidence regarding the confidentiality of the undisclosed records. They also failed to provide any evidence showing that there were only three records that were not disclosed and that the entirety of the undisclosed records was confidential, preventing respondents from redacting the confidential information and releasing the rest of the record. As such, we conclude that the district court abused its discretion by denying the writ petition. See City of Reno v. Reno Gazette-Journal, 119 Nev. 55, 58, 63 P.3d 1147, 1148 (2003) (providing that a district court's decision to deny a writ petition is reviewed for an abuse of discretion).


²NRS 200.3773(1) precludes a public officer or employee from disclosing "any records, files or other documents which include the photograph, likeness, name, address, telephone number or other fact or information that reveals the identity of a victim of a sexual offense or an offense involving a pupil" to an unauthorized person.

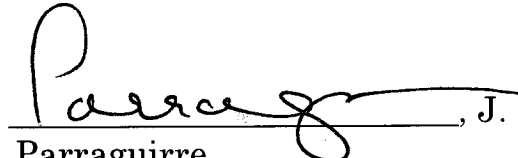
Further, we conclude that the district court abused its discretion by failing to require the Fallon Police Department to provide appellant with a copy of his record of criminal history. NRS 179A.150(3)'s mandate that a law enforcement agency must provide a copy of a record of criminal history to the subject of the record upon request and payment of a reasonable fee does not include a geographical limitation.

Accordingly, we reverse the district court's order denying the writ petition and remand this matter to the district court.³ On remand, the district court shall require respondents to submit evidence regarding the confidentiality of all the undisclosed records, in order to allow the district court to consider the merits of appellant's writ petition.

It is so ORDERED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

³Appellant's motion to strike or disregard pages 1-8 of respondents' appendix is granted. See Carson Ready Mix v. First Nat'l Bk., 97 Nev. 474, 476, 635 P.2d 276, 277 (1981) (explaining that this court is generally limited in its review to the district court record).

cc: Tenth Judicial District Court, Dept. 1
Robert Leslie Stockmeier
Mackedon, McCormick & King
Tenth District Court Clerk