

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

AAA and IAA (Minors) by their Next Friend
and Parent, Amir Abdul-Alim and Hafsa Elarfaoui,
and on their own behalf,

Petitioner (s),

vs.

Clark County School District, *et al.*,

Respondent (s),

State of Nevada, Department of Education, *et. al.*,

Respondent (s).

*On Petition for a WRIT of Certiorari to the
United States Court of Appeals
for the Ninth Circuit*

APPENDICES TO
PETITION FOR WRIT OF CETIORARI

Amir Abdul-Alim AND
Hafsa Elarfaoui
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Las Vegas, Nevada 89103
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APPENDIX

APPENDIX A
IN THE
UNITED STATES COURT OF APPEAL, NINTH CIRUCUT COURT

AAA and IAA (Minors) by their Next Friend
and Parent, Amir Abdul-Alim and Hafsa Elarfaoui,
and on their own behalf,

Plaintiffs -Appellants,

vs.

Clark County School District, *et al.*,

Defendants-Appellees,

State of Nevada, Department of Education, *et. al.*,

Defendants-Appellees.

Appeals from the United States District Court, District of Nevada in
No. 2:23-cv-01677-MMD-NJK, Judge Miranda M. Du, and Magistrate Judge Nancy
J. Koppe

MANDATE Order written by: W. Fletcher, Berzon, and Rawlinson, Circuit Judges
re (DktEntry: 24.1) for Case No. 24-5845

Decided: November 15, 2024

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

NOV 15 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

AMIR ABDUL-ALIM and HAFSA
ELARFAOUI, On their own behalf and On
behalf of their minor children, A.A.A. and
I.A.A.,

Plaintiffs - Appellants,

v.

CLARK COUNTY SCHOOL DISTRICT;
et al.,

Defendants - Appellees.

No. 24-5845

D.C. No.

2:23-cv-01677-MMD-NJK

District of Nevada,
Las Vegas

MANDATE

The judgment of this Court, entered October 24, 2024, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to

Rule 41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

APPENDIX B
IN THE
UNITED STATES COURT OF APPEAL, NINTH CIRUCUT COURT

AAA and IAA (Minors) by their Next Friend
and Parent, Amir Abdul-Alim and Hafsa Elarfaoui,
and on their own behalf,

Plaintiffs -Appellants,

vs.

Clark County School District, *et al.*,

Defendants-Appellees,

State of Nevada, Department of Education, *et. al.*,

Defendants-Appellees.

Appeals from the United States District Court, District of Nevada in
No. 2:23-cv-01677-MMD-NJK, Judge Miranda M. Du, and Magistrate Judge Nancy
J. Koppe

ORDER Written by: W. Fletcher, Berzon, and Rawlinson, Circuit Judges re
(DktEntry: 20.1) for Case No. 24-5845

Decided: October 24,2024

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 24 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

AMIR ABDUL-ALIM and HAFSA
ELARFAOUI, On their own behalf and On
behalf of their minor children, A.A.A. and
I.A.A.,

Plaintiffs - Appellants,

v.

CLARK COUNTY SCHOOL DISTRICT;
et al.,

Defendants - Appellees.

No. 24-5845

D.C. No.

2:23-cv-01677-MMD-NJK

District of Nevada,

Las Vegas

ORDER

Before: W. FLETCHER, BERZON, and RAWLINSON, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the orders challenged in the appeal are not final or appealable.

See Fed. R. Civ. P. 54(b); *Chacon v. Babcock*, 640 F.2d 221, 222 (9th Cir. 1981)

(order disposing of fewer than all claims against all parties not immediately

appealable unless district court directs entry of judgment pursuant to Fed. R. Civ.

P. 54(b)); *WMX Techs., Inc. v. Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997)

(dismissal of complaint with leave to amend is not appealable); *United States v.*

Washington, 573 F.2d 1121, 1122 (9th Cir. 1978) (order denying motion to

disqualify judge is not final or appealable); *Branson v. City of Los Angeles*, 912

F.2d 334, 336 (9th Cir. 1990) (denial of reconsideration of non-appealable order is

itself not appealable). Consequently, this appeal is dismissed for lack of jurisdiction.

All pending motions are denied as moot.

DISMISSED.

APPENDIX C
IN THE
UNITED STATES COURT OF APPEAL, NINTH CIRUCUT COURT

AAA and IAA (Minors) by their Next Friend
and Parent, Amir Abdul-Alim and Hafsa Elarfaoui,
and on their own behalf,

Plaintiffs -Appellants,

vs.

Clark County School District, *et al.*,

Defendants-Appellees,

State of Nevada, Department of Education, *et. al.*,

Defendants-Appellees.

Appeals from the United States District Court, District of Nevada in No.
2:20-cv-00195-JAD-BNW, Judge Jennifer A. Dorsey, and Magistrate Judge Brenda
Weksler

Memorandum Disposition Written by: Diarmuid F, O' Scannlain, Ferdinand
F. Fernandez, and Barry Silverman (Circuit Judges) re (USCA DktEntry:12-1) for
Case No. 22-16935

Decided: July 3, 2024

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 3 2024

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

AAA, a Minor, by her Next Friend and
Parent; AMIR ABDUL-ALIM; HAFSA
ELARFAOUI,

Plaintiffs-Appellants,

v.

CLARK COUNTY SCHOOL DISTRICT,

Defendant-Appellee,

and

RACHEL DAVIS; JESUS JARA; DANIEL
EBIHARA; SONYA HOLDSWORTH;
MARKOS STOUMBIS; ARMINE
DARMANDJIAN, AKA Armine Kopalyan;
MELODY THOMPSON; RACHEL
JACOBI; ROBERT C. WEIRES; STATE OF
NEVADA DEPARTMENT OF
EDUCATION; MELONIE POSTER;
JELAINE L. SELBY; NICOLE
BAUMGARTNER; JODIE SCHRAVEN;
SHELBE RODGERS; TERI L. AQUILINA,
R.N.; SHELBE COYNE, AKA Shelbie
Rodgers; ELIZABETH ASHLEY; JAMIE J.
RESCH; CONNIE TORRES; WILLIAM
JESNSEN; JHONE EBERT; PERRY
ZIRKEL,

No. 22-16935

D.C. No.
2:20-cv-00195-JAD-BNW

MEMORANDUM*

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

Defendants.

Appeal from the United States District Court
for the District of Nevada
Jennifer A. Dorsey, District Judge, Presiding

Submitted July 3, 2024**
San Francisco, California

Before: O'SCANNLAIN, FERNANDEZ, and SILVERMAN, Circuit Judges.

Amir Abdul-Alim and Hafsa Elarfaoui ("the Parents") appeal pro se on their behalf and on behalf of their daughter, AAA, from the district court's summary judgment in favor of the Clark County School District ("the District") on several claims and from the dismissal of several claims. Because the facts are known to the parties, we repeat them only as necessary to explain our decision.

I

Summary judgment is appropriate when there is no genuine dispute of material fact, and the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). The District has conceded that its delay in revising AAA's individualized education program ("IEP") after receiving the independent evaluation likely violated the procedural requirements of the Individuals with

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Disabilities Education Act (“IDEA”). *See* 20 U.S.C. § 1414(d)(4)(A); 34 C.F.R. § 300.324(b)(1)(i). But a procedural violation denies a child a free appropriate public education (“FAPE”) only if the violation (1) impedes the child’s right to a FAPE; (2) significantly impedes the parents’ opportunity to participate; or (3) deprives the child of educational benefits. 20 U.S.C. § 1415(f)(3)(E); *see also* *D.O. ex rel. Walker v. Escondido Union Sch. Dist.*, 59 F.4th 394, 416 (9th Cir. 2023). The Parents have not shown any of these harms. AAA continued to receive the same services under her prior IEP, improved in handling and overcoming her hearing impairment, and performed well academically, even earning a spot on the honor roll. AAA made “progress appropriate in light of [her] circumstances,” and she therefore received a FAPE during the 2018-19 school year. *Andrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017). The district court did not err in granting summary judgment to the District on the Parents’ FAPE claims under the IDEA and section 504 of the Rehabilitation Act. *See K.M. ex rel. Bright v. Tustin Unified Sch. Dist.*, 725 F.3d 1088, 1099 (9th Cir. 2013).

The district court also did not err in granting summary judgment to the District on the Parents’ claims related to AAA’s 2016 reevaluation and the following 2017-18 IEP. The IDEA requires civil actions to be brought within 90 days of the state administrative decision. 20 U.S.C. § 1415(i)(2)(B); Nev. Admin. Code § 388.315(3). This suit was filed more than nine months after the state

administrative decision addressing the 2016 reevaluation and 2017-18 IEP.

The Parents have not identified any applicable law that prohibited the District from receiving the independent evaluation of AAA, and the district court did not err in granting summary judgment to the District on these privacy claims.

Nor did the district court err in granting summary judgment to the District on the Parents' discrimination claims under section 504 of the Rehabilitation Act and Title II of the Americans With Disabilities Act. The Parents have not identified any reasonable accommodation that AAA was denied because of her disability, nor have they shown that the District acted with deliberate indifference or discriminatory animus. *See* 29 U.S.C. § 794; 42 U.S.C. § 12132; *A.G. v. Paradise Valley Unified Sch. Dist. No. 69*, 815 F.3d 1195, 1204 (9th Cir. 2016).

The district court did not abuse its discretion by dismissing the individual employees of the District who were sued in their official capacity because those claims were duplicative of the claims against the District. *See* Fed. R. Civ. P. 21; *Kentucky v. Graham*, 473 U.S. 159, 166 (1985).

The district court properly granted summary judgment to the District on the Parents' claim under 42 U.S.C. § 1983 because IDEA violations cannot be pursued through a section 1983 claim. *Blanchard v. Morton Sch. Dist.*, 509 F.3d 934, 937-38 (9th Cir. 2007).

The Parents have not meaningfully challenged the district court's judgment

as to the other claims and defendants, and we do not address those decisions.

Greenwood v. FAA, 28 F.3d 971, 977 (9th Cir. 1994).

II

The Parents may proceed pro se when asserting their own rights related to the alleged denial of a FAPE. *Winkelman ex rel. Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 533, 535 (2007); *accord Blanchard*, 509 F.3d at 938 (parents may bring certain ADA and Rehabilitation Act claims based on discrimination against their child). But the Parents could not represent AAA pro se. *Johns v. County of San Diego*, 114 F.3d 874, 876-77 (9th Cir. 1997). Accordingly, we affirm the district court's judgment as to the Parents' claims brought in their individual capacity, but we vacate the judgment as to AAA's claims. On remand, the district court is instructed to dismiss without prejudice AAA's claims. *See id.* at 877-78.

AFFIRMED IN PART; VACATED IN PART; REMANDED.

The Parents' motion for appointment of pro bono counsel is **DENIED**.

We award costs on appeal to the District as the substantially prevailing party. *See Fed. R. App. P. 39(a)(4)*.

APPENDIX D
IN THE
UNITED STATES DISTRICT COURT, DISTRICT OF NEVADA

AAA and IAA (Minors) by their Next Friend
and Parent, Amir Abdul-Alim and Hafsa Elarfaoui,
and on their own behalf,

Plaintiffs -Appellants,

vs.

Clark County School District, *et al.*,

Defendants-Appellees,

State of Nevada, Department of Education, *et. al.*,

Defendants-Appellees.

In the United States District Court, District of Nevada in
No. 2:23-cv-01677-MMD-NJK, Judge Miranda M. Du, and Magistrate Judge Nancy
J. Koppe

“Report and Recommendation” re [ECF: No. 79]

Decided: August 14, 2024

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4
5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA
7

8 AMIR ABDUL-ALIM, et al.,
9 Plaintiff(s),

10 v.

11 CLARK COUNTY SCHOOL DISTRICT, et
12 al.,
Defendant(s).

Case No. 2:23-cv-01677-MMD-NJK

Report and Recommendation

13 Pending before the Court is an order to show cause why the claims of minor children
14 A.A.A. and I.A.A. should not be dismissed. Docket No. 77. Plaintiffs filed a response. Docket
15 No. 78. For the reasons discussed below, the undersigned **RECOMMENDS** that the claims of
16 minor children A.A.A. and I.A.A. be dismissed without prejudice and that the complaint be
17 otherwise dismissed with leave for the adult Plaintiffs (Amir Abdul-Alim and Hafsa Elarfaoui) to
18 amend to the extent they have viable claims to bring in their own right.

19 **I. BACKGROUND**

20 Plaintiffs filed suit in state court, identifying themselves as minors A.A.A. and I.A.A., as
21 well as Amir Abdul-Alim and Hafsa Elarfaoui both on their own behalf and on behalf of their
22 minor children. *See, e.g.*, Docket No. 1-1 at 2. In very general terms, the allegations arise out of
23 the elementary school education for A.A.A. and I.A.A. *See* Docket No. 1-1. The case was
24 removed to federal court on federal question jurisdiction. *See* Docket No. 1.

25 On March 25, 2024, the Court ordered Amir Abdul-Alim and Hafsa Elarfaoui to retain
26 counsel because they bring claims on behalf of minor children without an attorney. Docket No.
27 48 at 1. Following extensions, the deadline to retain counsel expired as of July 24, 2024. *See*
28 Docket No. 72 at 2. Licensed counsel has not appeared on behalf of Plaintiffs. The matter before

1 the Court is the order to show cause why the claims of minor children A.A.A. and I.A.A. should
2 not be dismissed. Docket No. 77.

3 **II. STANDARDS**

4 The Ninth Circuit has held that “a parent or guardian cannot bring an action on behalf of a
5 minor child without retaining a lawyer.” *Johns v. Cnty. of San Diego*, 114 F.3d 874, 877 (9th Cir.
6 1997). In that case, a parent brought constitutional claims under § 1983 on behalf of his minor
7 son. *Id.* at 876. The district court granted guardian ad litem status to the parent on the condition
8 that he secure counsel. *Id.* After the parent failed to secure counsel, the district court dismissed
9 the case with prejudice. *Id.* The Ninth Circuit affirmed the dismissal but instructed the district
10 court to vacate the dismissal with prejudice and enter an order dismissing the case without
11 prejudice. *Id.* at 878. The Ninth Circuit noted that a non-lawyer “has no authority to appear as an
12 attorney for others than himself.” *Id.* at 877 (citing *C.E. Pope Equity Trust v. United States*, 818
13 F.2d 696, 697 (9th Cir.1987)). The Ninth Circuit thus reasoned that the “issue of whether a parent
14 can bring a *pro se* lawsuit on behalf of a minor falls squarely within the ambit of the principles
15 that militate against allowing non-lawyers to represent others in court.” *Johns*, 114 F.3d at 877
16 (citations and internal quotations omitted). The Ninth Circuit stated that “a non-attorney parent
17 must be represented by counsel in bringing an action on behalf of his or her child” because the
18 “choice to appear *pro se* is not a true choice for minors who under state law . . . cannot determine
19 their own legal actions.” *Id.* at 876 (citing *Meeker v. Kercher*, 782 F.2d 153, 154 (10th Cir. 1986)).
20 “Where they have claims that require adjudication, [minors] are entitled to trained legal assistance
21 so their rights may be fully protected.” *Johns*, 114 F.3d at 877.

22 *Johns* remains controlling Ninth Circuit law on this issue. See *Grizzell v. San Elijo*
23 *Elementary Sch.*, ___ F.4th ___, 2024 WL 3682780, at *2-3 (9th Cir. Aug. 7, 2024); see also *Buran*
24 *v. Riggs*, 5 F. Supp. 3d 1212, 1215-16 (D. Nev. 2014) (Du, J.).

1 **III. ANALYSIS¹**

2 **A. Dismissal of Claims of Minor Children**

3 As explained above, governing Ninth Circuit authority mandates that “a parent or guardian
4 cannot bring an action on behalf of a minor child without retaining a lawyer.” *Johns*, 114 F.3d at
5 877. Plaintiffs attempt to ward off dismissal of the minor children’s claims with various statutory,
6 constitutional, and policy arguments questioning that the Ninth Circuit’s “counsel mandate.” For
7 example, Plaintiffs contend that the counsel mandate deprives the minors of their right to access
8 the courts and is inconsistent with the rules governing guardians ad litem. *See, e.g.*, Docket No.
9 78 at 4-5. Regardless of the merits of those arguments, the undersigned magistrate judge is simply
10 not empowered to reverse Ninth Circuit precedent. Indeed, very recent Ninth Circuit case law
11 squarely forecloses these types of challenges to the counsel mandate. *See Grizzell*, 2024 WL
12 3682780. That case was brought on behalf of homeless children, the mother of whom alleged a
13 host of troubling contentions with their attempt to receive a free, appropriate public education. *See*
14 *id.* at *1 (noting 40 claims including those brought under the Equal Protection and Due Process
15 Clauses of the Fourteenth Amendment, Title IV and Title VI of the Civil Rights Act of 1964, and
16 several other federal and state education laws). The case was not brought by a licensed attorney,
17 however, and the mother raised a “series of statutory, constitutional, and policy arguments”
18 challenging the Ninth Circuit’s “counsel mandate.” *Id.* at *2. While the Ninth Circuit panel
19 appeared sympathetic to some of those arguments, it also recognized that it was bound by existing
20 Ninth Circuit law (*Johns*) that parents are not permitted to bring claims on behalf of minor children
21 without a licensed attorney. *Id.* at *3. As such, the Ninth Circuit rejected those arguments and
22 affirmed the dismissal of the children’s claims. *See id.* Obviously, this Court is likewise bound
23 by published Ninth Circuit authority, *e.g.*, *Zuniga v. United Can Co.*, 812 F.2d 443, 450 (9th Cir.

24
25 ¹ Before turning to the pertinent analysis, the Court recognizes that Plaintiffs repeatedly
26 question the undersigned’s impartiality. *See, e.g.*, Docket No. 78 at 2, 8, 11 n.8, 12, 13, 14, 17.
27 To the extent Plaintiffs are seeking recusal pursuant to 28 U.S.C. § 144 or 28 U.S.C. § 455, such
28 relief is not warranted. The undersigned harbors no actual bias toward Plaintiffs. Moreover, the
undersigned’s orders issued in this case do not create grounds to warrant recusal. *See, e.g., Liteky*
v. United States, 510 U.S. 540, 555 (1994); *Pau v. Yosemite Park & Curry Co.*, 928 F.2d 880, 885
(9th Cir. 1991) (quoting *Toth v. TransWorld Airlines*, 862 F.2d 1381, 1388 (9th Cir. 1988)).

1 1987),² and it likewise cannot entertain Plaintiffs' arguments that contradict that authority.³ As
 2 such, Plaintiffs' arguments regarding the propriety or fairness of the counsel mandate do not
 3 persuade the undersigned that dismissal should be avoided as to the claims brought without counsel
 4 on behalf of the minor children.

5 Although not cited in response to the order to show cause, the undersigned is also mindful
 6 that the papers elsewhere suggest that the counsel mandate does not apply to certain educational
 7 statutes pursuant to Supreme Court precedent. *See, e.g.*, Docket No. 59 at 4 (discussing *Winkelman*
 8 *v. Parma City Sch. Dist.*, 550 U.S. 516 (2007)); *see also* Docket No. 50 at 9 (motion to dismiss).
 9 In *Winkelman*, the Supreme Court recognized that "IDEA grants parents independent, enforceable
 10 rights." *Id.* at 533. As a result, the Supreme Court held that "[p]arents enjoy rights under IDEA;
 11 and they are, as a result, entitled to prosecute IDEA claims *on their own behalf*." 550 U.S. at 535
 12 (emphasis added). By contrast, the Supreme Court made clear that it was not deciding that parents
 13 are permitted to bring claims on behalf of their children without licensed counsel. *Id.* at 535 ("In
 14 light of our holding we need not reach petitioners' alternative argument, which concerns whether
 15 IDEA entitles parents to litigate their child's claims *pro se*"). Moreover and significantly, the
 16 Ninth Circuit recently rejected the contention that its case law carves out specific claims as
 17 excepted from the counsel mandate. *See, e.g., Grizzell*, 2024 WL 3682780, at *2-3 (recognizing
 18 out-of-circuit authority creating an exception to the counsel mandate in the social security context,
 19
 20

21
 22 ² Plaintiffs at times rely on out-of-circuit authority, including some decisions that take a
 23 flexible approach to requiring attorney representation for minor children. *See, e.g.*, Docket No. 78
 24 at 10 n.6 (citing *Thomas ex rel N.T. v Astrue*, 674 F. Supp. 2d 507, 511 (S.D.N.Y. 2009)). The
 25 Ninth Circuit, however, has not endorsed such an approach. *See, e.g., Grizzell*, 2024 WL 3682780,
 26 at *2-3 (recognizing such out-of-circuit authority but concluding that it was inconsistent with
 27 binding Ninth Circuit authority).

28 ³ Plaintiffs focus extensively on their contention that the Ninth Circuit's counsel mandate
 runs afoul of the guardian ad litem provisions in Rule 17(c) of the Federal Rules of Civil Procedure.
See, e.g., Docket No. 78 at 14-16. To be clear, *Johns* itself applied the counsel mandate in the
 specific context of a minor's father who was appointed guardian ad litem under Rule 17(c). *See*
Johns, 114 F.3d at 876; *see also Buran*, 5 F. Supp. 3d at 1215-16 (quoting *Meeker*, 782 F.2d at
 154). The undersigned magistrate judge is simply not empowered to reverse Ninth Circuit
 precedent.

1 but finding that such cases are inconsistent with binding Ninth Circuit precedent).⁴ Hence, the
 2 undersigned has not been persuaded that the particular claims brought in this case are exempt from
 3 the counsel mandate.

4 The undersigned is sympathetic to Plaintiffs' situation and has no doubt that the parent
 5 Plaintiffs are indeed attempting to act in the best interest of the minor children. *See* Docket No.
 6 78 at 3. Binding Ninth Circuit precedent, however, mandates that they may not bring these claims
 7 on behalf of the minor children without an attorney. Instead, the rights of the minor children must
 8 be fully protected by trained legal assistance in the form of a licensed attorney. Hence, the claims
 9 of minor children A.A.A. and I.A.A. should be dismissed without prejudice.

10 B. Rule 8(a) of the Federal Rules of Civil Procedure

11 In light of the above, the claims of the minor children A.A.A. and I.A.A. should be
 12 dismissed without prejudice. As also recognized above, however, there is a potential that the adult
 13 Plaintiffs (Amir Abdul-Alim and Hafsa Elarfaoui) might have their own claims that they could
 14 plead on their own behalf. *Winkelman*, 550 U.S. at 535. Moreover, the complaint as drafted
 15 indicates that at least some of the claims are in fact being brought by the adult Plaintiffs. *See, e.g.*,
 16 Docket No. 1-1 at 2. Deciphering which claims are brought by which plaintiffs, however, is not a
 17 simple endeavor. Litigants are required to provide a short, plain statement of their claims, *see* Fed.
 18 R. Civ. P. 8(a), including specifying clearly which claims apply to which parties, *cf. McHenry v.*
 19 *Renne*, 84 F.3d 1172, 1178 (9th Cir. 1996). Although the pleadings of *pro se* litigants are construed

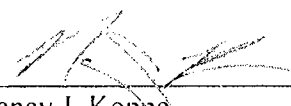
20
 21 ⁴ Defendant State of Nevada, Department of Education elsewhere suggests that the Ninth
 22 Circuit created an exception to the counsel mandate for claims brought under the Rehabilitation
 23 Act and the ADA. *See* Docket No. 50 at 9 (citing *Blanchard v. Morton Sch. Dist.*, 509 F.3d 934
 24 (9th Cir. 2007)). That case involved a parent plaintiff who "sought damages on her own behalf
 25 rather than her son's," *see, e.g., id.* at 936, and the pertinent section addressed whether a parent
 26 has standing as a general matter to bring that type of claim, *see id.* at 938. The Ninth Circuit did
 27 not hold that a parent may bring a claim on behalf of a child without an attorney. *See, e.g., Oskowis*
 28 *v. Sedona Oak-Creek Unified Sch. Dist. #9*, 2018 WL 3069461, at *4 (D. Ariz. June 21, 2018)
 (explaining that *Blanchard* enables a parent to bring suit on her own behalf, but that the counsel
 mandate continues to apply to efforts to bring claims without an attorney on behalf of her child).
 Moreover, any contrary reading of *Blanchard* is belied by the more recent Ninth Circuit decision
 recognizing a lack of exceptions to the counsel mandate under controlling Ninth Circuit law. *See*
Grizzell, 2024 WL 3682780, at *2-3. At bottom, the Court has its own duty to correctly articulate
 and apply the law, *e.g., Bateman v. U.S. Postal Serv.*, 231 F.3d 1220, 1224 (9th Cir. 2000), and
 the undersigned has not identified controlling legal authority creating exceptions to the counsel
 mandate for particular claims.

1 liberally, they must still comply with this requirement. *E.g., Montgomery v. Las Vegas Metro.*
2 *Police Dept.*, 2014 WL 3724213, at *3 n.3 (D. Nev. July 28, 2014). When litigants have not
3 complied with that dictates of Rule 8(a), courts may dismiss the complaint *sua sponte*. *See, e.g.,*
4 *Apothio, LLC v. Kern Cnty.*, 599 F. Supp. 3d 983, 1000 (E.D. Cal. 2022) (collecting cases). Given
5 the circumstances of this case, the complaint should be dismissed with leave for Plaintiffs (Amir
6 Abdul-Alim and Hafsa Elarfaoui) to file an amended complaint bringing their own claims on their
7 own behalf, to the extent they believe they can properly allege such claims.

8 **IV. CONCLUSION**

9 For the reasons discussed above, the undersigned **RECOMMENDS** that the claims of
10 minor children A.A.A. and I.A.A. be dismissed without prejudice and that the complaint be
11 otherwise dismissed with leave for the adult Plaintiffs (Amir Abdul-Alim and Hafsa Elarfaoui) to
12 amend to the extent they have viable claims to bring in their own right.

13 Dated: August 14, 2024

14 
15 Nancy J. Koppe
16 United States Magistrate Judge
17

18 **NOTICE**

19 This report and recommendation is submitted to the United States District Judge assigned
20 to this case pursuant to 28 U.S.C. § 636(b)(1). A party who objects to this report and
21 recommendation must file a written objection supported by points and authorities within fourteen
22 days of being served with this report and recommendation. Local Rule 1B 3-2(a). Failure to file
23 a timely objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951
24 F.2d 1153, 1157 (9th Cir. 1991).

APPENDIX E
IN THE
UNITED STATES DISTRICT COURT, DISTRICT OF NEVADA

AAA and IAA (Minors) by their Next Friend
and Parent, Amir Abdul-Alim and Hafsa Elarfaoui,
and on their own behalf,

Plaintiffs -Appellants,

vs.

Clark County School District, *et al.*,

Defendants-Appellees,

State of Nevada, Department of Education, *et. al.*,

Defendants-Appellees.

In the United States District Court, District of Nevada in
No. 2:23-cv-01677-MMD-NJK, Judge Miranda M. Du, and Magistrate Judge Nancy
J. Koppe

ORDER Dismissing Claims of Minor Petitioners AAA and IAA
re [ECF: No. 83]

Decided: September 4, 2024

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

AMIR ABDUL-ALIM, *et al.*,

Plaintiff,

v.

CLARK COUNTY SCHOOL DISTRICT, *et al.*,

Defendants.

Case No. 2:23-cv-01677-MMD-NJK

ORDER

Pro se plaintiffs Amir Abdul-Alim, Hafsa Elarfaoui, and Minors AAA and IAA brought this action challenging the lack of proper educational accommodations for the minor plaintiffs. In light of the Court's finding that the minor plaintiffs were not represented by a licensed attorney, the Court stayed this action pending legal representation of the minor plaintiffs and then, after representation was not obtained, ordered Plaintiffs to show cause as to why the minor plaintiffs' claims should not be dismissed. (ECF Nos. 48, 51, 77.) Now before the Court is United States Magistrate Judge Nancy J. Koppe's Report and Recommendation ("R&R") (ECF No. 79) that the Court dismiss the minor plaintiffs' claims without prejudice and otherwise dismiss the complaint with leave to amend so that the adult plaintiffs ("Parents") may restate their claims to the extent they have viable claims in their own right. The Parents timely filed an objection (ECF No. 81 ("Objection")) to the R&R. The Court overrules the Objection and adopts the R&R in full.

I. REPORT AND RECOMMENDATION

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's R&R, the Court is required to "make a de novo determination of those portions of the R&R to which objection is made." *Id.* The Court will review the entirety of the R&R de novo because the Parents have objected to the whole

1 R&R. (ECF No. 81 at 5.)

2 **A. Dismissal of Minor Plaintiffs' Claims**

3 Judge Koppe first recommends dismissing the unrepresented minor plaintiffs'
4 claims because, in the Ninth Circuit, "a parent or guardian cannot bring an action on behalf
5 of a minor child without retaining a lawyer." *Johns v. Cnty. of San Diego*, 114 F.3d 874,
6 877 (9th Cir. 1997); accord AAA by *Abdul-Alim v. Clark Cnty. Sch. Dist.*, No. 22-16935,
7 2024 WL 3292728, at *2 (9th Cir. July 3, 2024) (ruling, in a similar action brought by the
8 parents in this district, that "the Parents could not represent AAA pro se"). While the Ninth
9 Circuit has recently questioned the soundness of the rigid rule as a policy matter, courts
10 in this circuit are still bound by it given the absence of "'clearly irreconcilable' intervening
11 precedent of a higher authority." *Grizzell v. San Elijo Elementary Sch.*, 110 F.4th 1177,
12 1180-81 (9th Cir. 2024) (quoting *Miller v. Gammie*, 335 F.3d 889, 893 (9th Cir. 2003) (en
13 banc)); see also *Yong v. I.N.S.*, 208 F.3d 1116, 1119 n.2 (9th Cir. 2000) ("[O]nce a federal
14 circuit court issues a decision, the district courts within that circuit are bound to follow it.").
15 The allegations in the Objection regarding the adult plaintiffs' efforts to obtain counsel,
16 the merits of the minor plaintiffs' underlying claims, the representation mandate's
17 inconsistency with the Federal Rules of Civil Procedure and the Constitution, and
18 Defendants' misconduct are all therefore immaterial to the operative legal question:
19 whether the minor plaintiffs are represented by a licensed attorney. (ECF No. 81 at 6-18.)
20 Although the Court is sympathetic to the fact that the Parents are trying to act in their
21 children's best interest by bringing these claims on their behalf, the Court is obligated to
22 follow the Ninth Circuit's mandate that the minor plaintiffs cannot bring claims in this court
23 without legal representation. See *Grizzell*, 110 F.4th at 1180-81. As the minor plaintiffs
24 are not currently represented, their claims must be dismissed. The Court will dismiss their
25 claims without prejudice so that, in the event they obtain proper legal representation, they
26 may replead those claims.

27 **B. Dismissal of Any Other Remaining Claims**

28 The Court likewise agrees with Judge Koppe that Plaintiffs' complaint (ECF No. 1-

1 ("Complaint") should be dismissed with leave to amend. (ECF No. 79 at 5-6.) Although the Parents could not bring claims on behalf of their children, the Parents may be able to proceed *pro se* asserting claims in their own rights. See *AAA by Abdul-Alim*, 2024 WL 3292728, at *2; *Blanchard v. Morton Sch. Dist.*, 509 F.3d 934, 938 (9th Cir. 2007) (parents may bring certain Americans with Disabilities Act claims based on discrimination against their child); *Winkelman ex rel. Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 531 (2007) (parents have independent rights under the Individuals with Disabilities Education Act).

The Complaint as it currently stands is unclear as to which specific claims are brought on the Parents' behalf, rather than solely on behalf of their children. (ECF No. 1-1.) Federal Rule of Civil Procedure 8(a)(2) requires "a short and plain statement of the claim showing that the pleader is entitled to relief, in order to 'give the defendant fair notice of what the claim is and grounds upon which it rests.'" *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting FED. R. CIV. PROC. 8(a)) (ellipses omitted). Here, where the Court has dismissed certain plaintiffs for the time being, it is important that the Complaint is clear as to "exactly *who* is alleged to have done *what* to *whom*" to ensure that Defendants have fair notice of which claims remain against them. *Robbins v. Oklahoma*, 519 F.3d 1242, 1249-50 (10th Cir. 2008); *cf. Deng v. Seattle Mun. Ct.*, No. C21-1316 MJP, 2021 WL 4744633, at *1 (W.D. Wash. Oct. 12, 2021) (dismissing with leave to amend where the court could not understand which specific claims the plaintiff brought as to each defendant). Thus, the Complaint is dismissed with leave to amend so that the Parents may clarify exactly which claims are brought on their own behalf. See FED. R. CIV. P. 15(a) ("The court should freely give leave [to amend] when justice so requires.").

II. CONCLUSION

It is therefore ordered that Plaintiffs' Objection (ECF No. 81) to Judge Koppe's Report and Recommendation (ECF No. 79) is overruled.

It is further ordered that Judge Koppe's Report and Recommendation (ECF No.


79) is adopted in full.

It is further ordered that the claims of the minor plaintiffs, AAA and IAA, are dismissed without prejudice.

It is further ordered that the Complaint (ECF No. 1-1) is otherwise dismissed with leave for Abdul-Alim and Elarfaoui to amend to the extent they have viable claims in their own right. If Abdul-Alim and Elarfaoui wish to file an amended complaint, they must do so by October 5, 2024. If they do not file a second amended complaint alleging cognizable claims in their own right by October 5, 2024, the Court will dismiss this case with prejudice.

It is further ordered that Defendants' motions to dismiss (ECF Nos. 6, 50) are denied as moot, given the dismissal of the Complaint.

DATED THIS 4th Day of September 2024.


MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE

APPENDIX F
IN THE
UNITED STATES DISTRICT COURT, DISTRICT OF NEVADA

AAA and IAA (Minors) by their Next Friend
and Parent, Amir Abdul-Alim and Hafsa Elarfaoui,
and on their own behalf,

Plaintiffs -Appellants,

vs.

Clark County School District, *et al.*,

Defendants-Appellees,

State of Nevada, Department of Education, *et. al.*,

Defendants-Appellees.

In the United States District Court, District of Nevada in
No. 2:23-cv-01677-MMD-NJK, Judge Miranda M. Du, and Magistrate Judge Nancy
J. Koppe

Minute Order Written in the Chambers of Honorable Chief U.S. District Judge
Miranda M. Du re [ECF: No. 86]

Decided: September 11, 2024

Activity in Case 2:23-cv-01677-MMD-NJK Abdul-Alim et al v. Clark County School District et al Order on Motion

From: cmecf@nvd.uscourts.gov

To: cmecfhelpdesk@nvd.uscourts.gov

Date: Wednesday, September 11, 2024 at 03:35 PM PDT

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.
NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

United States District Court

District of Nevada

Notice of Electronic Filing

The following transaction was entered on 9/11/2024 at 3:34 PM PDT and filed on 9/11/2024

Case Name: Abdul-Alim et al v. Clark County School District et al

Case Number: 2:23-cv-01677-MMD-NJK

Filer:

Document Number: 86(No document attached)

Docket Text:

MINUTE ORDER IN CHAMBERS of the Honorable Chief Judge Miranda M. Du on 9/11/2024. Plaintiffs have filed a motion under Federal Rule of Civil Procedure 60 to amend Judge Koppe's order (ECF No. [82] ("Order")) denying their motion to disqualify Judge Koppe (ECF No. [80] ("Motion to Disqualify")), which Judge Koppe construed as a motion for reconsideration. (ECF No. [85] ("Motion to Amend the Order").) But Plaintiffs have not identified any valid reason why they should be granted relief from the Order. See Fed. R. Civ. Proc. 60(b) (outlining the reasons a court may grant relief from an order). To start, Judge Koppe did not err in construing the Motion to Disqualify as a motion for reconsideration because Plaintiffs sought to relitigate an already-decided issue. Judge Koppe had previously addressed Plaintiffs' calls for her to recuse herself, and she found that, as she "harbors no actual bias toward Plaintiffs," recusal was not warranted. (ECF No. [79] at 3 n.1.) Moreover, there is no actual evidence that Judge Koppe has a conflict of interest or is otherwise prejudiced against Plaintiffs. (ECF No. [85] at 7.) As the Court previously noted, binding Ninth Circuit precedent required the Court to dismiss the minor plaintiffs' claims unless and until they obtain licensed legal counsel. (ECF No. [83].) Any orders to that effect therefore do not evince any bias toward Plaintiffs. Plaintiffs' difficulty effecting service of process upon Judge Koppe is similarly immaterial. The Motion to Amend the Order is denied. (Copies have been distributed pursuant to the NEF - GIVM)

2:23-cv-01677-MMD-NJK Notice has been electronically mailed to:

Sami Randolph randosn@nv.ccsd.net, martie1@nv.ccsd.net

David Gardner dgardner@ag.nv.gov, dturman@ag.nv.gov

Amir Abdul-Alim aabdulalim@aol.com

2:23-cv-01677-MMD-NJK Notice has been delivered by other means to:

A AA

Hafsa Elarfaoui
5412 Retablo Avenue, #3
Las Vegas, NV 89103

I AA

APPENDIX G
IN THE
UNITED STATES DISTRICT COURT, DISTRICT OF NEVADA

AAA and IAA (Minors) by their Next Friend
and Parent, Amir Abdul-Alim and Hafsa Elarfaoui,
and on their own behalf,

Plaintiffs -Appellants,

vs.

Clark County School District, *et al.*,

Defendants-Appellees,

State of Nevada, Department of Education, *et. al.*,

Defendants-Appellees.

In the United States District Court, District of Nevada in
No. 2:23-cv-01677-MMD-NJK, Judge Miranda M. Du, and Magistrate Judge Nancy
J. Koppe

USDC Order that thwarts Petitioners
Amir Abdul-Alim AND Hafsa Elarfaoui claims re [ECF: No. 111]
re [ECF: No. 83]

Decided: January 2, 2024

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AMIR ABDUL-ALIM, *et al.*,

Plaintiff,

v.

CLARK COUNTY SCHOOL DISTRICT, *et al.*,

Defendants.

Case No. 2:23-cv-01677-MMD-NJK

ORDER

Pro se plaintiffs Amir Abdul-Alim, Hafsa Elarfaoui, and Minors AAA and IAA brought this action challenging the lack of proper educational accommodations for the minor plaintiffs. In light of the Court's finding that the minor plaintiffs were not represented by a licensed attorney, the Court stayed this action pending legal representation of the minor plaintiffs and then, after representation was not obtained, ordered Plaintiffs to show cause as to why the minor plaintiffs' claims should not be dismissed. (ECF Nos. 48, 51, 77.) Now before the Court is United States Magistrate Judge Nancy J. Koppe's Report and Recommendation ("R&R") (ECF No. 79) that the Court dismiss the minor plaintiffs' claims without prejudice and otherwise dismiss the complaint with leave to amend so that the adult plaintiffs ("Parents") may restate their claims to the extent they have viable claims in their own right. The Parents timely filed an objection (ECF No. 81 ("Objection")) to the R&R. The Court overrules the Objection and adopts the R&R in full.

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R&R. (ECF No. 81 at 5.)

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The Complaint as it currently stands is unclear as to which specific claims are brought on the Parents' behalf, rather than solely on behalf of their children. (ECF No. 1-1.) Federal Rule of Civil Procedure 8(a)(2) requires "'a short and plain statement of the claim showing that the pleader is entitled to relief,' in order to 'give the defendant fair notice of what the claim is and grounds upon which it rests.'" *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting FED. R. CIV. PROC. 8(a)) (ellipses omitted). Here, where the Court has dismissed certain plaintiffs for the time being, it is important that the Complaint is clear as to "exactly *who* is alleged to have done *what* to *whom*" to ensure that Defendants have fair notice of which claims remain against them. *Robbins v. Oklahoma*, 519 F.3d 1242, 1249-50 (10th Cir. 2008); *cf. Deng v. Seattle Mun. Ct.*, No. C21-1316 MJP, 2021 WL 4744633, at *1 (W.D. Wash. Oct. 12, 2021) (dismissing with leave to amend where the court could not understand which specific claims the plaintiff brought as to each defendant). Thus, the Complaint is dismissed with leave to amend so that the Parents may clarify exactly which claims are brought on their own behalf. See FED. R. CIV. P. 15(a) ("The court should freely give leave [to amend] when justice so requires.").

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DATED THIS 4th Day of September 2024.


MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE

APPENDIX H

THE CONSTITUTION OF THE STATE OF NEVADA STATUTORY AND REGULATORY PROVISIONS INVOLVED

Nevada Constitution, Article 1, Declaration of Rights (See Section 24)

Revised December 9, 2024

THE CONSTITUTION OF THE STATE OF NEVADA

[The Nevada constitution was framed by a convention of delegates chosen by the people. The convention met at Carson City on July 4, 1864, and adjourned on July 28 of the same year. On the 1st Wednesday of September 1864, the constitution was approved by the vote of the people of the Territory of Nevada, and on October 31, 1864, President Lincoln proclaimed that the State of Nevada was admitted into the Union on an equal footing with the original states.

The literal text of the original, signed copy of the constitution filed in the office of the secretary of state has been retained, unless it has been repealed or superseded by amendment. Where the original text has been amended or where a new provision has been added to the original constitution, the source of the amendment or addition is indicated in the source note immediately following the text of the amended or new section. Leadlines for sections have been supplied by the Legislative Counsel of the State of Nevada.]

[Preliminary Action.]

Ordinance.

Preamble.

Article.	<u>1.</u>	Declaration of Rights.
	<u>2.</u>	Right of Suffrage.
	<u>3.</u>	Distribution of Powers.
	<u>4.</u>	Legislative Department.
	<u>5.</u>	Executive Department.
	<u>6.</u>	Judicial Department.
	<u>7.</u>	Impeachment and Removal From Office.
	<u>8.</u>	Municipal and Other Corporations.
	<u>9.</u>	Finance and State Debt.
	<u>10.</u>	Taxation.
	<u>11.</u>	Education.
	<u>12.</u>	Militia.
	<u>13.</u>	Public Institutions.
	<u>14.</u>	Boundary.
	<u>15.</u>	Miscellaneous Provisions.
	<u>16.</u>	Amendments.
	<u>17.</u>	Schedule.
	<u>XVIII.</u>	[Right of Suffrage.] Repealed in 1992.
	<u>19.</u>	Initiative and Referendum.

[Election Ordinance.]

ARTICLE. 1. - Declaration of Rights.

- Sec. 1. Inalienable rights.
2. Purpose of government; paramount allegiance to United States.
3. Trial by jury; waiver in civil cases.
4. Liberty of conscience.
5. Suspension of habeas corpus.
6. Excessive bail and fines; cruel or unusual punishments; detention of witnesses.
7. Bail; exception for capital offenses and certain murders.
8. Rights of accused in criminal prosecutions; jeopardy; due process of law; eminent domain.
- 8A. Rights of victims of crime.
9. Liberty of speech and the press.
10. Right to assemble and to petition.
11. Right to keep and bear arms; civil power supreme.
12. Quartering soldier in private house.
13. Representation apportioned according to population.
14. Exemption of property from execution; imprisonment for debt.
15. Bill of attainder; ex post facto law; obligation of contract.
16. Rights of foreigners. [Repealed in 1924.]
17. Slavery and involuntary servitude prohibited. [Effective through November 25, 2024, and after that date unless the provisions of Assembly Joint Resolution No. 10 (2021) are approved and ratified by the voters at the 2024 General Election.]
17. Slavery and involuntary servitude prohibited. [Effective November 26, 2024, if the provisions of Assembly Joint Resolution No. 10 (2021) are approved and ratified by the voters at the 2024 General Election.]
18. Unreasonable seizure and search; issuance of warrants.
19. Treason.
20. Rights retained by people.
21. Recognition of marriage.
22. Eminent domain proceedings: Restrictions and requirements.
24. Equality of rights.
25. Fundamental right to reproductive freedom. [Effective November 24, 2026, if the provisions of Senate Joint Resolution No. 7 (2023) are agreed to and passed by the 2025 Legislature and approved and ratified by the voters at the 2026 General Election.]

Section. 1. **Inalienable rights.** All men are by Nature free and equal and have certain inalienable rights among which are those of enjoying and defending life and liberty; Acquiring, Possessing and Protecting property and pursuing and obtaining safety and happiness[.]

Sec: 2. **Purpose of government; paramount allegiance to United States.** All political power is inherent in the people[.] Government is instituted for the protection, security and benefit of the people; and they have the right to alter or reform the same whenever the public good may require it. But the Paramount Allegiance of every citizen is due to the Federal Government in the exercise of all its Constitutional powers as the same have been or may be defined by the Supreme Court of the United States; and no power exists in the people of this or any other State of the Federal Union to dissolve their connection therewith or perform any act tending to impair[,] subvert, or resist the Supreme Authority of the government of the United States. The Constitution of the United States confers full power on the Federal Government to maintain and Perpetuate its existance [existence], and whensoever any portion of the States, or people thereof attempt to secede from the Federal Union, or forcibly resist the Execution of its laws, the Federal Government may, by warrant of the Constitution, employ armed force in compelling obedience to its Authority.

Sec: 3. **Trial by jury; waiver in civil cases.** The right of trial by Jury shall be secured to all and remain inviolate forever; but a Jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law; and in civil cases, if three fourths of the Jurors agree upon a verdict it shall stand and have the same force and effect as a verdict by the whole Jury, Provided, the Legislature by a law passed by a two thirds vote of all the members elected to each branch thereof may require a unanimous verdict notwithstanding this Provision.

Sec: 4. **Liberty of conscience.** The free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed in this State, and no person shall be rendered incompetent

to be a witness on account of his opinions on matters of his religious belief, but the liberty of conscience [conscience] hereby secured, shall not be so construed, as to excuse acts of licentiousness or justify practices inconsistent with the peace, or safety of this State.

Sec. 5. Suspension of habeas corpus. The privilege of the writ of Habeas Corpus, shall not be suspended unless when in cases of rebellion or invasion the public safety may require its suspension.

Sec. 6. Excessive bail and fines; cruel or unusual punishments; detention of witnesses. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

Sec. 7. Bail; exception for capital offenses and certain murders. All persons shall be bailable by sufficient sureties; unless for Capital Offenses or murders punishable by life imprisonment without possibility of parole when the proof is evident or the presumption great.

[Amended in 1980. Proposed and passed by the 1977 legislature; agreed to and passed by the 1979 legislature; and approved and ratified by the people at the 1980 general election. See: Statutes of Nevada 1977, p. 1697; Statutes of Nevada 1979, p. 1941.]

Sec. 8. Rights of accused in criminal prosecutions; jeopardy; due process of law; eminent domain.

1. No person shall be tried for a capital or other infamous crime (except in cases of impeachment, and in cases of the militia when in actual service and the land and naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the Legislature) except on presentment or indictment of the grand jury, or upon information duly filed by a district attorney, or Attorney General of the State, and in any trial, in any court whatever, the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself.

2. No person shall be deprived of life, liberty, or property, without due process of law.

3. Private property shall not be taken for public use without just compensation having been first made, or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterward made.

[Amended in 1912, 1996 and 2018. The first amendment was proposed and passed by the 1909 legislature; agreed to and passed by the 1911 legislature; and approved and ratified by the people at the 1912 general election. See: Statutes of Nevada 1909, p. 346; Statutes of Nevada 1911, p. 454. The second amendment was proposed and passed by the 1993 legislature; agreed to and passed by the 1995 legislature; and approved and ratified by the people at the 1996 general election. See: Statutes of Nevada 1993, p. 3065; Statutes of Nevada 1995, p. 2880. The third amendment was proposed and passed by the 2015 Legislature; agreed to and passed by the 2017 Legislature; and approved and ratified by the people at the 2018 General Election. See: Statutes of Nevada 2015, p. 4074; Statutes of Nevada 2017, p. 4612.]

Sec. 8A. Rights of victims of crime.

1. Each person who is the victim of a crime is entitled to the following rights:

(a) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment and abuse, throughout the criminal or juvenile justice process.

(b) To be reasonably protected from the defendant and persons acting on behalf of the defendant.

(c) To have the safety of the victim and the victim's family considered as a factor in fixing the amount of bail and release conditions for the defendant.

(d) To prevent the disclosure of confidential information or records to the defendant which could be used to locate or harass the victim or the victim's family.

(e) To refuse an interview or deposition request, unless under court order, and to set reasonable conditions on the conduct of any such interview to which the victim consents.

(f) To reasonably confer with the prosecuting agency, upon request, regarding the case.

(g) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other postconviction release proceedings, and to be present at all such proceedings.

(h) To be reasonably heard, upon request, at any public proceeding, including any delinquency proceeding, in any court involving release or sentencing, and at any parole proceeding.

(i) To the timely disposition of the case following the arrest of the defendant.

(j) To provide information to any public officer or employee conducting a presentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations

before the sentencing of the defendant.

(k) To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant and the release of or the escape by the defendant from custody.

(l) To full and timely restitution.

(m) To the prompt return of legal property when no longer needed as evidence.

(n) To be informed of all postconviction proceedings, to participate and provide information to the parole authority to be considered before the parole of the offender and to be notified, upon request, of the parole or other release of the offender.

(o) To have the safety of the victim, the victim's family and the general public considered before any parole or other postjudgment release decision is made.

(p) To have all monetary payments, money and property collected from any person who has been ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim.

(q) To be specifically informed of the rights enumerated in this section, and to have information concerning those rights be made available to the general public.

2. A victim has standing to assert the rights enumerated in this section in any court with jurisdiction over the case. The court shall promptly rule on a victim's request. A defendant does not have standing to assert the rights of his or her victim. This section does not alter the powers, duties or responsibilities of a prosecuting attorney. A victim does not have the status of a party in a criminal proceeding.

3. Except as otherwise provided in subsection 4, no person may maintain an action against this State or any public officer or employee for damages or injunctive, declaratory or other legal or equitable relief on behalf of a victim of a crime as a result of a violation of this section or any statute enacted by the Legislature pursuant thereto. No such violation authorizes setting aside a conviction.

4. A person may maintain an action to compel a public officer or employee to carry out any duty required by this section or any statute enacted by the Legislature pursuant thereto.

5. The granting of these rights to victims must not be construed to deny or disparage other rights possessed by victims. A parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.

6. The Legislature shall by law provide any other measure necessary or useful to secure to victims of crime the benefit of the rights set forth in this section.

7. As used in this section, "victim" means any person directly and proximately harmed by the commission of a criminal offense under any law of this State. If the victim is less than 18 years of age, incompetent, incapacitated or deceased, the term includes the legal guardian of the victim or a representative of the victim's estate, member of the victim's family or any other person who is appointed by the court to act on the victim's behalf, except that the court shall not appoint the defendant as such a person.

[Proposed new section passed by the 2015 Legislature; agreed to and passed by the 2017 Legislature and approved and ratified by the voters at the 2018 General Election. See: Statutes of Nevada 2015, p. 4073; Statutes of Nevada 2017, p. 4611.]

Sec: 9. Liberty of speech and the press. Every citizen may freely speak, write and publish his sentiments on all subjects being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for libels, the truth may be given in evidence to the Jury; and if it shall appear to the Jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the party shall be acquitted or exonerated.

Sec: 10. Right to assemble and to petition. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives and to petition the Legislature for redress of Grievances.

Sec. 11. Right to keep and bear arms; civil power supreme.

1. Every citizen has the right to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes.

2. The military shall be subordinate to the civil power; No standing army shall be maintained by this State in time of peace, and in time of War, no appropriation for a standing army shall be for a longer time than two years.

[Amended in 1982. Proposed and passed by the 1979 legislature; agreed to and passed by the 1981 legislature; and approved and ratified by the people at the 1982 general election. See: Statutes of Nevada 1979, p. 1986; Statutes of Nevada 1981, p. 2083.]

Sec: 12. **Quartering soldier in private house.** No soldier shall, in time of Peace be quartered in any house without the consent of the owner, nor in time of War, except in the manner to be prescribed by law.

Sec: 13. **Representation apportioned according to population.** Representation shall be apportioned according to population.

Sec: 14. **Exemption of property from execution; imprisonment for debt.** The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for payment of any debts or liabilities hereafter contracted; And there shall be no imprisonment for debt, except in cases of fraud, libel, or slander, and no person shall be imprisoned [imprisoned] for a Militia fine in time of Peace.

Sec: 15. **Bill of attainder; ex post facto law; obligation of contract.** No bill of attainder, ex-post-facto law, or law impairing the obligation of contracts shall ever be passed.

Sec: 16. **Rights of foreigners.** [Repealed in 1924.]

[Sec. 16 of the original constitution was repealed by vote of the people at the 1924 general election. See: Statutes of Nevada 1921, p. 416; Statutes of Nevada 1923, p. 407. The original section read: "Foreigners who are, or who may hereafter become Bona-fide residents of this State, shall enjoy the same rights, in respect to the possession, enjoyment and inheritance of property, as native born citizens."]

Sec: 17. **Slavery and involuntary servitude prohibited.** [Effective through November 25, 2024, and after that date unless the provisions of Assembly Joint Resolution No. 10 (2021) are approved and ratified by the voters at the 2024 General Election.] Neither Slavery nor involuntary servitude unless for the punishment of crimes shall ever be tolerated in this State.

Sec. 17. Slavery and involuntary servitude prohibited. [Effective November 26, 2024, if the provisions of Assembly Joint Resolution No. 10 (2021) are approved and ratified by the voters at the 2024 General Election.] Neither Slavery nor involuntary servitude shall ever be tolerated in this State.

(Proposed amendment passed by the 2021 Legislature; agreed to and passed by the 2023 Legislature; effective November 26, 2024, if approved and ratified by the voters at the 2024 General Election. See: Statutes of Nevada 2021, p. 4008; Statutes of Nevada 2023, p. 3720.)

Sec. 18. **Unreasonable seizure and search; issuance of warrants.** The right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by Oath or Affirmation, particularly describing the place or places to be searched, and the person or persons, and thing or things to be seized.

Sec: 19. **Treason.** Treason against the State shall consist only in levying war against it, adhering to its enemies or giving them Aid and Comfort. And no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sec: 20. **Rights retained by people.** This enumeration of rights shall not be construed to impair or deny others retained by the people.

Sec. 21. Recognition of marriage.

1. The State of Nevada and its political subdivisions shall recognize marriages and issue marriage licenses to couples regardless of gender.

2. Religious organizations and members of the clergy have the right to refuse to solemnize a marriage, and no person has the right to make any claim against a religious organization or member of the clergy for such a refusal.

3. All legally valid marriages must be treated equally under the law.

[Added in 2002, amended in 2020. Proposed by initiative petition and approved and ratified by the voters at the 2000 and 2002 General Elections.]—(Amendment proposed and passed by the 2017 Legislature; agreed to and passed by the 2019 Legislature; and approved and ratified by the voters at the 2020 General Election. See: Statutes of Nevada 2017, p. 4558; Statutes of Nevada 2019, p. 4604.)

Sec. 22. **Eminent domain proceedings: Restrictions and requirements.** Notwithstanding any other provision of this Constitution to the contrary:

1. Public use shall not include the direct or indirect transfer of any interest in property taken in an eminent domain proceeding from one private party to another private party. In all eminent domain actions, the government shall have the burden to prove public use.

2. In all eminent domain actions, prior to the government's occupancy, a property owner shall be given copies of all appraisals by the government and shall be entitled, at the property owner's election, to a separate and distinct determination by a district court jury, as to whether the taking is actually for a public use.

3. If a public use is determined, the taken or damaged property shall be valued at its highest and best use without considering any future dedication requirements imposed by the government. If private property is taken for any proprietary governmental purpose, then the property shall be valued at the use to which the government intends to put the property, if such use results in a higher value for the land taken.

4. In all eminent domain actions, just compensation shall be defined as that sum of money, necessary to place the property owner back in the same position, monetarily, without any governmental offsets, as if the property had never been taken. Just compensation shall include, but is not limited to, compounded interest and all reasonable costs and expenses actually incurred.

5. In all eminent domain actions where fair market value is applied, it shall be defined as the highest price the property would bring on the open market.

6. Property taken in eminent domain shall automatically revert back to the original property owner upon repayment of the original purchase price, if the property is not used within five years for the original purpose stated by the government. The five years shall begin running from the date of the entry of the final order of condemnation.

7. A property owner shall not be liable to the government for attorney fees or costs in any eminent domain action.

8. For all provisions contained in this section, government shall be defined as the State of Nevada, its political subdivisions, agencies, any public or private agent acting on their behalf, and any public or private entity that has the power of eminent domain.

9. Any provision contained in this section shall be deemed a separate and freestanding right and shall remain in full force and effect should any other provision contained in this section be stricken for any reason.

[Added in 2008. Proposed by initiative petition and approved and ratified by the people at the 2006 and 2008 General Elections.]

Sec. 24. Equality of rights. Equality of rights under the law shall not be denied or abridged by this State or any of its political subdivisions on account of race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry or national origin.

[Added in 2022. Proposed and passed by the 2019 Legislature; agreed to and passed by the 2021 Legislature; and approved and ratified by the voters at the 2022 General Election. See: Statutes of Nevada 2019, p. 4637; Statutes of Nevada 2021, p. 3993.]

Sec. 25. Fundamental right to reproductive freedom. [Effective November 24, 2026, if the provisions of Senate Joint Resolution No. 7 (2023) are agreed to and passed by the 2025 Legislature and approved and ratified by the voters at the 2026 General Election.]

1. Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including, without limitation, prenatal care, childbirth, postpartum care, birth control, vasectomy, tubal ligation, abortion, abortion care, management of a miscarriage and infertility care. The right of an individual to reproductive freedom shall not be denied, burdened or infringed upon unless justified by a compelling State interest that is achieved by the least restrictive means available.

2. Notwithstanding the provisions of subsection 1, the State may regulate the provision of abortion care after fetal viability, provided that in no circumstance may the State prohibit an abortion that, in the professional judgment of an attending provider of health care, is medically indicated to protect the life or physical or mental health of the pregnant individual.

3. The State shall not penalize, prosecute or otherwise take adverse action against an individual based on the actual, potential, perceived or alleged outcome of the pregnancy of the individual, including, without limitation, a miscarriage, stillbirth or abortion.

4. The State shall not penalize, prosecute or otherwise take adverse action against a provider of health care, who is licensed by the State, for acting consistent with the applicable scope of practice and standard of care for performing an abortion upon, providing abortion care to or providing reproductive care services to an individual who has granted the individual's voluntary consent. 38a

5. The State shall not penalize, prosecute or otherwise take adverse action against any individual or entity for aiding or assisting another individual in exercising the right of the individual to reproductive freedom with

APPENDIX I

STATUTORY AND REGULATORY PROVISIONS INVOLVED

28 U.S. Code § 1654

Text Contains Law Effect on January 8, 2025

[\[Print\]](#) [\[Print selection\]](#)[\[OLRC Home\]](#) [Help](#)**28 USC 1654: Appearance personally or by counsel**

Text contains those laws in effect on January 8, 2025

From Title 28-JUDICIARY AND JUDICIAL PROCEDURE**PART V-PROCEDURE****CHAPTER 111-GENERAL PROVISIONS****Jump To:**[Source Credit](#)[Miscellaneous](#)[Amendments](#)**§1654. Appearance personally or by counsel**

In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein. (June 25, 1948, ch. 646, 62 Stat. 944 ; May 24, 1949, ch. 139, §91, 63 Stat. 103 .)

HISTORICAL REVISION NOTES**1948 Act**

Based on title 28, U.S.C., 1940 ed., §394 (Mar. 3, 1911, ch. 231, §272, 36 Stat. 1164).

Words "as, by the rules of the said courts respectively, are permitted to manage and conduct causes therein," after "counsel," were omitted as surplusage. The revised section and section 2071 of this title effect no change in the procedure of the Tax Court before which certain accountants may be admitted as counsel for litigants under Rule 2 of the Tax Court.

Changes were made in phraseology.

1949 Act

This section restores in section 1654 of title 28, U.S.C., language of the original law.

EDITORIAL NOTES**AMENDMENTS**

1949-Act May 24, 1949, inserted "as, by the rules of such courts, respectively, are permitted to manage