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1977. Nevertheless, the district judge considered and granted the petition and the state has appealed.

We do not reach the merit, if any, of the appeal because the habeas petition was not cognizable in the district court. Accordingly, we reverse. This proceeding is remanded with instructions to dismiss the petition.

**CLARK COUNTY SPORTS ENTERPRISES, INC., A
NEVADA CORPORATION, AND DALE W. HOLADAY,
ELIZABETH HOLADAY, CARL PRICE, AND MRS.
CARL PRICE, AS INDIVIDUALS, APPELLANTS, v. JAMES
M. KAIGHN AND F. T. CARTER, RESPONDENTS.**

No. 9396

July 13, 1977

566 P.2d 411

Appeal from judgment of Eighth Judicial District Court, Clark County; Joseph S. Pavlikowski, Judge.

Appeal was taken from an order of the district court which granted an ex parte motion filed by a former corporate administrator and entered a judgment of \$10,000 against the corporation in favor of the former administrator as compensation for services rendered. The Supreme Court held that notice of the application for the \$10,000 judgment should have been given to the corporation and the ex parte judgment would therefore be set aside.

Reversed and remanded.

Jolley, Urga & Wirth, Las Vegas, for Appellants.

LePome & Gorman, Las Vegas, for Respondents.

1. PROCESS.

Central tenet of legal system is concept of notice and hearing; justice is served only when parties are given adequate notice and appropriate opportunity to respond in open court.

2. CORPORATIONS.

Even though corporation appeared through its president and with counsel at proceedings which resulted in order granting corporate administrator's motion to withdraw and ordering \$10,000

compensation for services rendered, notice of former administrator's subsequent ex parte application for judgment against corporation for \$10,000 should have been given to corporation and order granting application would be set aside.

OPINION

Per Curiam:

The respondents, James M. Kaighn and F. T. Carter, filed this action against Clark County Sports Enterprises, Inc., Dale W. Holaday, Elizabeth Holaday, and Mr. and Mrs. Carl Price. The complaint alleged waste of corporate assets by the Holadays and Prices and sought, among other things, the appointment of a receiver. The court appointed Warren Stanley and Mel Larson as administrators of Clark County Sports Enterprises, Inc., and later named James H. Phillips to serve in that capacity.

Mr. Phillips acted as administrator for about one year, after which he petitioned the court for authority to withdraw. Notice of the hearing on the petition was given to all parties. The appellant corporation appeared through its president, Carl Price, and with counsel. The court granted Phillips' motion to withdraw and further ordered that, as compensation for services rendered, "Phillips shall be paid the sum of \$10,000.00." The order does not reflect who was to pay the fee.

A year later, Phillips filed an ex parte motion seeking a \$10,000 judgment against the appellant corporation. No notice was given, and the following day the court below entered a \$10,000 judgment in favor of Phillips and against the appellant corporation, from which order this appeal has been taken.

[Headnote 1]

A central tenet of our legal system is the concept of notice and hearing. Justice is served only when parties are given adequate notice and an appropriate opportunity to respond in open court. This court has reiterated this concept over and over—as long ago as 1871 in *Pratt v. Rice*, 7 Nev. 123, and as recently as 1975 in *Monroe, Ltd. v. Central Tel. Co.*, 91 Nev. 450, 538 P.2d 152.

Pratt is significant both for its similarities to this case and for the strong directive from this court that in all matters except those "of course", notice and hearing must be accorded. *Pratt* obtained a decree of foreclosure against Rice in 1866, but

apparently was unsuccessful in recovering upon such foreclosure. Five years later he obtained an ex parte judgment against Rice, nunc pro tunc. No notice of such application was given, despite the fact that Rice had appeared in the proceedings. Rice moved to vacate the order because of lack of notice and its insufficiency of showing the facts. The motion was denied.

On appeal, this court reversed, citing the rule that "after appearance a defendant or his attorney shall be entitled to notice of all subsequent proceedings in which notice is required to be given:" Stat. 1869, Sec. 499." 7 Nev. at 126. This court then indicated that, because such a motion for entry of judgment was not "a mere matter of course", it could be entered only upon notice.

[Headnote 2]

We believe, and so hold, that in the instant case notice of the application for the judgment should have been given to the appellant corporation; therefore, we set aside the judgment and remand for further proceedings.

CHRISTOPHER GARY LARSEN, APPELLANT, v.
STATE OF NEVADA, RESPONDENT.

No. 8677

July 13, 1977

566 P.2d 413

Appeal from judgment of conviction, Eighth Judicial District Court, Clark County, Joseph S. Pavlikowski, Judge.

Defendant was convicted in the district court of first degree murder, kidnapping, use of a deadly weapon in commission of a crime, and battery with use of a deadly weapon, and he appealed. The Supreme Court held that (1) deputy district attorney did not obtain statements from defendant in violation of his right against self-incrimination; (2) finding of jury in previous trial that co-defendant was guilty of first degree kidnapping did not operate to preclude defendant, pursuant to doctrines of res judicata and collateral estoppel, from being convicted in subsequent prosecution under felony murder statute; and (3) trial court was not required in absence of a request to instruct jury on false imprisonment because crime