


Las Vegas Police Protective Association Metro, Inc.



To: Officer Luis Payan
From: David Roger, General Counsel 
Date: January 28, 2014
Re: Authority to Arrest on Federal Land

You requested an opinion on whether an officer may cite or arrest an individual on federal property.

Generally, states have complete jurisdiction over the land within its borders. *See, United States v. McBratney*, 104 U.S. 621 (1881). This principal is codified by NRS 171.010 which provides:

Every person, whether an inhabitant of this state, or any other state, or of a territory or district of the United States, is liable to punishment by the laws of this state for a public offense committed by him therein, except where it is by law cognizable exclusively in the courts of the United States.

State and federal jurisdictions enjoy concurrent jurisdiction over acts that constitute crimes under both federal and state law and such prosecution does not violate the double jeopardy clause of the Fifth Amendment. *Bartkus v. Illinois*, 359 U.S. 121, 79 S.Ct. 676 (1959); *Abbate v. United States*, 359 U.S. 187, 79 S.Ct. 666, (1959); *United States v. Jackson*, 470 F.2d 684, (5th Cir. 1972), cert. denied 412 U.S. 951, 93 S.Ct. 3019, (1972).

Our Nevada Supreme Court has had occasion to pass upon the issue of whether the State has jurisdiction to prosecute crimes which occur on property owned by the

United States Bureau of Land Management in *Pendleton v. State*, 103 Nev. 95, 734 P.2d 693 (1987).¹

The court, in concluding that the State retained jurisdiction to prosecute such cases, explained:

The parties concede that the incident took place on land owned by the United States Bureau of Land Management. Pendleton argues that the courts of this state have no jurisdiction to try such a case. We disagree. The district court has jurisdiction over crimes committed in the county except for crimes committed where the United States has exclusive jurisdiction. NRS 171.010. We find no evidence in the record to support the conclusion that the United States has exclusive jurisdiction over the land in question.

A review of the Nevada Admission Acts reveals no retention of jurisdiction by United States over the land in question. Therefore, the only way in which the United States could obtain exclusive jurisdiction involves an affirmative cessation of jurisdiction by the State of Nevada and an affirmative acceptance of jurisdiction by the United States. *Fort Leavenworth R.R. Co. v. Lowe*, 114 U.S. 525 (1885). *See also, United States v. Cliatta*, 580 F.2d 156 (5th Cir. 1978). Furthermore, in Nevada, no cessation of jurisdiction is effective until it is recorded in the County Recorder's Office. NRS 328.110.

Because there is no evidence that Nevada has ever ceded exclusive jurisdiction over the lands in question to the United States, Pendleton's argument must fail. The defendant has the burden of showing the applicability of negative exceptions in jurisdictional statutes. *State v. Buckaroo Jack*, 30 Nev. 325 (1908); *State v. Mendez*, 57 Nev. 192, 209, 61 P.2d 300, 305 (1963). Once the state produces evidence that

¹ 18 U.S.C.A. 3242 gives the federal courts exclusive jurisdiction over crimes committed by Indians on reservations.

the crime took place in the county, it is incumbent upon the defendant to prove that the incident took place on lands over which the United States has exclusive jurisdiction. Id.

There being no such evidence in the record, we conclude that the courts of this state had jurisdiction to try Pendleton.

Id. 103 Nev. at 98, 734 P.2d at 696.

LVMPD officers are vested with jurisdiction to cite or arrest individuals committing crimes on federal land.