IN THE SUPREME COURT OF THE STATE OF NEVADA

LAVONDA WINFIELD,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 87298

FILED

MAY 10 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF PROHIBITION

This is an original petition for a writ of prohibition or, in the alternative, mandamus, challenging a district court order compelling the production of records in a criminal proceeding. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

The State charged petitioner Lavonda Winfield with one count of child abuse, neglect, or endangerment resulting in substantial bodily harm arising from the alleged medical neglect of the victim (Winfield's son). Winfield moved to continue the trial date citing the need to retain an expert witness, and to review and seek additional medical records of the victim. The State requested all medical records in Winfield's possession pertaining to the victim, "whether they're using them in their case-in-chief or not."[1]

[1]We note that the State's request was a general reciprocal discovery request and no expert witnesses had been noticed by the defense at the time the district court made the ruling being challenged in this writ petition.

The district court ordered Winfield to turn over all medical records regarding the child. Winfield objected on the ground that NRS 174.245(1)(b) does not require the defense to turn over records that are not intended for use in the defendant's case-in-chief. The district court disagreed and issued a written order requiring Winfield to turn over *all* of the victim's medical records within her possession. Winfield now petitions for a writ of prohibition or, in the alternative mandamus, requesting that we order the district court to vacate its discovery order for overreaching NRS 174.245(1)(b) and violating Winfield's Fifth Amendment right against self-incrimination.

Because Winfield challenges the scope of a discovery order, we review the petition as one seeking a writ of prohibition. *See Wardleigh v. Second Jud. Dist. Ct.*, 111 Nev. 345, 350, 891 P.2d 1180, 1183 (1995) ("[P]rohibition is a more appropriate remedy for the prevention of improper discovery than mandamus."). A writ of prohibition may issue when a district court acts without or in excess of its jurisdiction. NRS 34.320; *Club Vista Fin. Servs., LLC v. Eighth Jud. Dist. Ct.*, 128 Nev. 224, 228, 276 P.3d 246, 249 (2012). Writ relief is only available where the petitioner does not have "a plain, speedy and adequate remedy in the ordinary course of law." NRS 34.330. In the context of discovery, "we generally will not exercise our discretion to review discovery orders through petitions for extraordinary relief, unless the challenged discovery order is one that is likely to cause irreparable harm, such as a blanket discovery order." *Club Vista*, 128 Nev. at 228, 276 P.3d at 249.

Here, we choose to exercise our discretion and entertain the petition because a later appeal, if there is a conviction, will not effectively provide a remedy for the improper disclosure of information. *See Bradley v.*

Eighth Jud. Dist. Ct., 133 Nev. 754, 756, 405 P.3d 668, 671 (2017) (entertaining an original petition seeking "to prevent the disclosure of allegedly privileged material"). Accordingly, we now turn to the merits of Winfield's petition.

Winfield argues that the district court's order exceeded the bounds of NRS 174.245(1)(b) because it ordered the disclosure of *all* medical records in Winfield's possession. Winfield contends that NRS 174.245(1)(b) limits reciprocal discovery only to evidence intended to be introduced during the defense's case-in-chief. Winfield also argues that compelling her to disclose the victim's medical record violates her Fifth Amendment right against self-incrimination. The State argues that (1) "its due diligence" justifies ordering Winfield to turn over all medical records in her possession, and (2) Winfield demonstrated her intent to use all of the medical records during trial. We conclude that the State's first argument lacks merit because the defendant's discovery obligations are governed by NRS 174.245(1), which does not involve any consideration of the State's due diligence in seeking to obtain the requested discovery items on their own, and the State's second argument is not supported by the record.

Nevada law dictates that criminal defendants must disclose certain evidence to the prosecution. As relevant here, NRS 174.245(1)(b) requires a defendant to allow the prosecution access to "[r]esults or reports of physical or mental examinations, scientific tests or scientific experiments *that the defendant intends to introduce in evidence during the case in chief* of the defendant." (Emphasis added.) Thus, the statutory language is clear: the defendant is only required to turn over evidence they intend to introduce during their case-in-chief. *See Wyman v. State*, 125 Nev. 592, 607-08, 217 P.3d 572, 583 (2009) ("[W]hen the language of a statute is plain and

unambiguous, such that it is capable of only one meaning, this court should not construe that statute otherwise."). We have also previously interpreted the term "case in chief," in the context of NRS 174.245(1)(a), as referring to "either party's initial presentation of evidence, in contrast to either's presentation of rebuttal evidence." *Floyd v. State*, 118 Nev. 156, 168, 42 P.3d 249, 257 (2002), *abrogated on other grounds by Grey v. State*, 124 Nev. 110, 119-20, 178 P.3d 154, 160-61 (2008) (holding that the State must provide notice of an expert rebuttal witness, abrogating *Floyd*).

Here, the prosecution explicitly asked Winfield for the medical records of the victim "whether they're using them in their case-in-chief or not," and the district court obliged. Although Winfield must turn over any of the victim's medical records that she intends to introduce during her case-in-chief, she is not statutorily required to turn over *all* medical records. Notably, the district court did not err in ordering the immediate disclosure of medical records given that the trial was set to begin within 30 days. *See* NRS 174.285(2) (requiring parties to comply with lawful discovery requests "not less than 30 days before trial"); NRS 174.295(2) (providing sanctions for failing to comply with the duty to disclose). Rather, the district court's error was in failing to limit its order only to records that Winfield intended to introduce during her case-in-chief. Therefore, we conclude the district court erred in ordering Winfield to turn over *all* medical records pertaining to Winfield's son as the order exceeded the requirements under NRS 174.245(1)(b). Thus, we need not consider Winfield's constitutional argument. *See White v. Warden*, 96 Nev. 634, 637 n.1, 614 P.2d 536, 537 n.1 (1980) ("This court will avoid consideration of constitutional questions when such consideration is unnecessary to the determination of an appeal."); *see also Caruso v. Eighth Jud. Dist. Ct.*, No. 82362, 2022 WL

1584695, at *1 (Nev. May 18, 2022) (Order Denying Petition) (stating that we would not reach the merits of a separation-of-powers issue because this court avoids constitutional issues when unnecessary to resolve the case).

Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF PROHIBITION instructing the district court to vacate its discovery order requiring Winfield to disclose records in excess of NRS 174.245(1)(b).

_____, C.J.
Cadish

_____, J.
Stiglich

_____, J.
Pickering

_____, J.
Herndon

_____, J.
Lee

_____, J.
Parraguirre

_____, J.
Bell

cc: Hon. Mary Kay Holthus, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk