

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER MONEY,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
VALORIE J. VEGA, DISTRICT JUDGE,
Respondents,

and

ALL STAR BAIL BONDS, INC.;
ANGELA D. MAYFIELD; GEORGE
GARCIA; AND JAMES L. LYON,
Real Parties in Interest.

No. 44821

FILED

APR 25 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus or prohibition challenges the district court's oral refusal to continue the trial date, March 9, 2005, in light of the Attorney General's alleged conflict of interest. Petitioner seeks a writ of mandamus compelling the district court to either continue the trial or sever him from the trial. Alternatively, petitioner asks this court to issue a writ of prohibition prohibiting the district court from proceeding to trial in this matter with petitioner as a defendant.

Having reviewed both the petition and the answer filed by the real parties in interest, we conclude that our intervention by way of extraordinary relief is warranted.¹ In light of the concerns expressed by

¹See Vann v. Shilleh, 126 Cal. Rptr. 401 (Ct. App. 1975) (reversing a judgment against appellants where appellants were forced to go trial without an attorney because their counsel withdrew on the eve of trial and the district court denied their request for a continuance so that new
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the real parties in interest over the pending expiration of NRCP 41(e)'s five-year period, a district court stay of all trial proceedings, rather than a mere continuance, appears warranted.² Therefore, we direct the court clerk to immediately issue a writ of mandamus compelling the district court to enter an order staying all proceedings in District Court Case No. A418980 until June 27, 2005. We note that, because a court-ordered stay operates to toll the NRCP 41(e) prescriptive period, the period during which the underlying case has been stayed by this court's March 8, 2005 order, as well as the period beginning on the date that the district court's stay takes effect and continuing until May 15, 2005, shall not be computed in determining when the NRCP 41(e) five-year period expires.³

Additionally, given that just over two months will remain in the five-year prescriptive period, after the real parties in interest are given the benefit of tolling, it seems unlikely that the real parties in interest will be able to calendar and bring their case to trial within sufficient time. Accordingly, in light of this court's decision in Rickard v. Montgomery Ward & Co.,⁴ the writ shall instruct the district court to allow the real

... continued

counsel could be obtained); Villegas v. Carter, 711 S.W.2d 624, 626 (Tex. 1986) (holding that "when a trial court allows an attorney to voluntarily withdraw, it must give the party time to secure new counsel and time for the new counsel to investigate the case and prepare for trial").

²See Boren v. City of North Las Vegas, 98 Nev. 5, 638 P.2d 404 (1982), see also Morgan v. Las Vegas Sands, Inc., 118 Nev. 315, 320, 43 P.3d 1036, 1039 (2002).

³Id.

⁴120 Nev. ___, ___, 96 P.3d 743, 747 (2004).

parties in interest a reasonable period of time to set and bring their case to trial upon the expiration of the district court's stay, provided that the real parties in interest act expeditiously.

It is so ORDERED.⁵

Becker, C.J.
Becker

Rose, J.
Rose

Hardesty, J.
Hardesty

cc: Hon. Valorie Vega, District Judge
Curran & Parry
Callister & Reynolds
Dominic P. Gentile, Ltd.
Hunterton & Associates
Attorney General Brian Sandoval/Carson City
Attorney General Brian Sandoval/Las Vegas
Clark County Clerk

⁵In light of this order, we vacate our March 8, 2005 stay of all district court proceedings.