

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY LEE,
Petitioner,

vs.

THE THIRD JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF LYON,
THE HONORABLE ROBERT E. ESTES,
DISTRICT JUDGE,

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 45305

FILED

SEP 09 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. P. [Signature]*
CHIEF DEPUTY CLERK

ORDER GRANTING PETITION

This is an original petition for a writ of certiorari challenging the district court's affirmance of petitioner Terry Lee's misdemeanor conviction for owning or keeping a vicious dog. Third Judicial District Court, Lyon County; Robert E. Estes, Judge.

On June 16, 2004, Lee was convicted in the justice court of one misdemeanor count of owning or keeping a vicious dog in violation of NRS 202.500(4)(a). The district court rejected Lee's direct appeal and motion for reconsideration. On May 25, 2005, Lee filed a petition for a writ of

certiorari in this court.¹ This court issued an order directing the State to file an answer and address two specific issues: (1) whether sufficient evidence was presented at trial to support the justice court's finding that the dog attack was unprovoked beyond a reasonable doubt; and (2) whether the justice court had the authority to order the dog humanely destroyed as a condition of Lee's suspended sentence.² On July 14, 2005, the State filed its answer in this court.

"A writ of certiorari is an extraordinary remedy and the decision to entertain a petition for a writ of certiorari lies within the discretion of this court."³ We have considered Lee's petition and the State's answer and conclude that the State failed to present sufficient evidence at trial to support the justice court's finding that the dog attack was unprovoked beyond a reasonable doubt. Therefore, we conclude that

¹Lee has no plain, speedy, and adequate remedy in the ordinary course of law because district courts "have final appellate jurisdiction in cases arising in Justices Courts and such other inferior tribunals as may be established by law." Nev. Const. art 6, § 6, cl. 1; Tripp v. City of Sparks, 92 Nev. 362, 550 P.2d 419 (1976); Waugh v. Casazza, 85 Nev. 520, 458 P.2d 359 (1969).


²Lee v. Dist. Ct., Docket No. 45305 (Order Directing Answer, June 20, 2005).


³Zamarripa v. District Court, 103 Nev. 638, 640, 747 P.2d 1386, 1387 (1987); see also NRS 34.020.

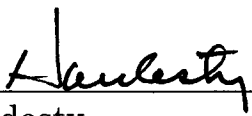
the district court's order of affirmance and the justice court's judgment of conviction must be reversed.

Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF CERTIORARI instructing the district court to REVERSE PETITIONER'S CONVICTION.


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Robert E. Estes, District Judge
Lyon County Public Defender
Attorney General Brian Sandoval/Carson City
Lyon County District Attorney
Lyon County Clerk