

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHIRLEY COLLETTI-
MILTENBERGER, INDIVIDUALLY
AND AS TRUSTEE OF THE JIMMIE
MILTENBERGER AND SHIRLEY J.
MILTENBERGER REVOCABLE
LIVING TRUST AGREEMENT DATED
OCTOBER 26, 2000,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; THE HONORABLE KATHY A.
HARDCASTLE, DISTRICT JUDGE;
AND THE HONORABLE STEVEN E.
JONES, DISTRICT JUDGE, FAMILY
COURT DIVISION,

Respondents,

and

JIMMIE MILTENBERGER,
INDIVIDUALLY AND AS TRUSTEE OF
THE JIMMIE MILTENBERGER AND
SHIRLEY J. MILTENBERGER
REVOCABLE LIVING TRUST
AGREEMENT DATED OCTOBER 26,
2000; AND THE JIMMIE
MILTENBERGER AND SHIRLEY J.
MILTENBERGER REVOCABLE
LIVING TRUST AGREEMENT DATED
OCTOBER 26, 2000,

Real Parties in Interest.

No. 45572

FILED

FEB 21 2006

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS OR
PROHIBITION AND IMPOSING SANCTIONS

This is an original petition for a writ of mandamus or prohibition challenging a district court order concerning the temporary

possession of the marital residence and challenging district court orders concerning claims of judicial bias. We have considered this petition and the answer thereto,¹ and we are not satisfied that this court's intervention by way of extraordinary relief is warranted. The district court did not manifestly abuse its discretion in awarding real party in interest Jimmie Miltenberger temporary possession of the Oval Circle property.² Further, we conclude that the district court properly denied petitioners' affidavit and motion concerning judicial bias.³ Therefore, we deny the petition and we deny petitioners' motion for a stay as moot.⁴

We conclude that petitioners' attorney, Carl F. Piazza, should be sanctioned for lack of candor to this court. The petition alleged that the district court inexplicably granted Jimmie exclusive possession of the Oval Circle property upon Jimmie's untimely oral motion for reconsideration. The petition did not inform this court, however, that the district court's decision was based primarily on Jimmie's written application for an order to show cause why petitioner Shirley Colletti-Miltenberger should not be held in contempt for leaving uninhabitable the parties' other property,

¹We grant the real parties in interest's motion to extend the time in which to file an answer, and we direct the clerk to file the answer and appendix, provisionally received on February 13, 2006.

²See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

³See NRS 1.235; Towbin Dodge, LLC v. Dist. Ct., 121 Nev. ___, 112 P.3d 1063 (2005); In re Petition to Recall Dunleavy, 104 Nev. 784, 769 P.2d 1271 (1988).

⁴See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

which was temporarily awarded to Jimmie.⁵ Accordingly, we conclude that sanctions are appropriate. Petitioners' counsel shall pay \$500 to real parties in interest's counsel and shall provide proof of payment to this court's clerk within thirty days from the date of this order.

It is so ORDERED.

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

cc: Hon. Kathy A. Hardcastle, District Judge
Hon. Steven E. Jones, District Judge, Family Court Division
Piazza & Associates
Sean K. Claggett
Graziadei & Cantor, Ltd.
Clark County Clerk

⁵See NRAP 38(b) (stating that this court may, on its own motion, impose attorney fees as sanctions for misuse of the appellate process).