

IN THE SUPREME COURT OF THE STATE OF NEVADA

AFRODITI JANET ELIADES-
LEDSTROM,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
JACKIE GLASS, DISTRICT JUDGE,
Respondents,

and

ESTATE OF MICHAEL PONZIO,
DECEASED; JAMES L. PONZIO,
INDIVIDUALLY AND AS
ADMINISTRATOR OF THE ESTATE
OF MICHAEL PONZIO; DONNA H.
PONZIO, INDIVIDUALLY AND AS
ADMINISTRATOR OF THE ESTATE
OF MICHAEL PONZIO; AND TRIXY C.
ROCCO,
Real Parties in Interest.

No. 51558

FILED

SEP 05 2008

TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF PROHIBITION OR MANDAMUS

This is an original petition for a writ of prohibition or mandamus, challenging district court orders denying (1) a motion to stay civil proceedings in a tort action pending resolution of criminal charges arising from the same incident, and (2) reconsideration of the stay motion. We granted a temporary stay of the underlying civil proceedings and ordered an answer. Real parties in interest timely filed their answer, and petitioner has filed a reply.

Petitioner Afroditi Janet Eliades-Ledstrom (“Ledstrom”) is the defendant in a tort action arising from a 2006 automobile accident, in which she allegedly drove in the wrong direction on Interstate 215 and crashed into an oncoming car driven by Michael Ponzio, resulting in his death and serious injuries to his passenger, real party in interest Trixy C. Rocco. The district court complaint, filed by real parties in interest Ponzio’s estate, his parents, and Rocco (collectively, “the Ponzios”), alleges that Ledstrom was driving under the influence of a controlled substance.

In addition to the civil action, Ledstrom was criminally charged with reckless driving resulting in a death. Consequently, Ledstrom filed a district court motion to stay all proceedings in the civil case pending resolution of the criminal case, asserting that the stay was necessary to protect her Fifth Amendment right against self-incrimination. The Ponzios opposed the motion. At a hearing on the motion, Ledstrom sought, in the alternative, a partial stay of the civil proceedings to prevent her deposition and having to respond to written discovery requests.

The district court denied Ledstrom’s motion in its entirety, stating at the hearing that “if she doesn’t want to testify then she just needs to invoke.” Ledstrom filed a motion for reconsideration, opposed by the Ponzios, which was also denied by the district court.

Thereafter, the Ponzios filed a motion to compel Ledstrom to respond to their discovery requests. Ledstrom then filed this petition for a writ of prohibition, or in the alternative, mandamus, which challenges the district court’s orders denying a stay and reconsideration. She also filed an emergency motion to stay the district court’s civil proceedings pending our consideration of this petition, and we granted a temporary stay on

May 16, 2008. The Ponzios thereafter timely filed an opposition to Ledstrom's motion and, as directed, an answer to the petition.

In her writ petition, Ledstrom essentially contends that the district court manifestly abused its discretion in denying her stay and reconsideration motions, because she will be forced to choose between (1) proceeding with discovery in her civil case that could compromise her defense in the criminal case arising out of the same factual circumstances, or (2) asserting her Fifth Amendment privilege and facing an adverse inference from her refusal to testify in her civil case. The Ponzios argue that this court approved such a choice in Meyer v. District Court¹ and that the district court did not abuse its discretion in denying Ledstrom's stay motion, particularly in light of the prejudice that they would suffer if an indefinite stay were granted.

A writ of prohibition is used to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court's jurisdiction.² Both mandamus and prohibition are extraordinary remedies, and it is within the discretion of this court to determine if a petition will be considered.³ A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station,⁴ or to control a

¹95 Nev. 176, 591 P.2d 259 (1979).

²See NRS 34.320.

³See, e.g., Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).

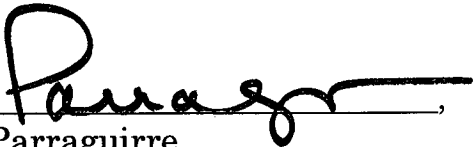
⁴See NRS 34.160.

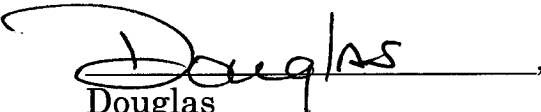
manifest abuse of discretion.⁵ A petitioner seeking extraordinary relief has the burden of demonstrating that this court's intervention is warranted.⁶

Having considered the petition and answer, and petitioner's appendix, we are not satisfied that the district court exceeded its jurisdiction or manifestly abused its discretion, such that our intervention by way of extraordinary relief is warranted at this time. Accordingly, we deny the petition and vacate our May 16, 2008, order granting a temporary stay in this case.

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Jackie Glass, District Judge
McCormick, Barstow, Sheppard, Wayte & Carruth, LLP
Goodman Law Group
Eighth District Court Clerk

⁵See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

⁶Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).