

IN THE SUPREME COURT OF THE STATE OF NEVADA

EMIGRANT STORAGE, LLC,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF WASHOE,
AND THE HONORABLE STEVEN P.
ELLIOTT, DISTRICT JUDGE,

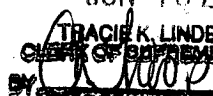
Respondents,

and

PRISCILLA (THEBEAU) BRESH,
Real Party in Interest.

No. 52027

FILED

JUN 10 2009
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR EXTRAORDINARY RELIEF

This original petition for a writ of certiorari¹ challenges a district court order affirming a justice court order awarding real party in interest damages in a small claims action.

A writ of certiorari is available to correct an inferior tribunal's judicial action if the tribunal exceeded its jurisdiction and "there is no appeal, nor, in the judgment of the court, any plain, speedy and adequate

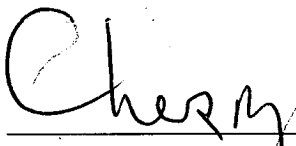
¹Although petitioner designated its petition as one for mandamus relief, the petition asks this court to review an appellate decision rendered by the district court on appeal from a justice court order. A petition for a writ of certiorari is the proper method to seek review of such decisions, and we therefore construe the petition as seeking a writ of certiorari. NRS 34.020(2); see Sellers v. Dist. Ct., 119 Nev. 256, 71 P.3d 495 (2003) (explaining that because this court lacks appellate jurisdiction to review a district court judgment entered on appeal from a justice court decision, an aggrieved party's only remedy would be through a writ petition, and certiorari is the proper form of relief to seek in such cases).

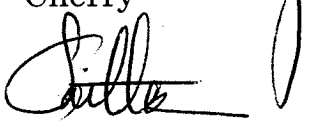
remedy.” NRS 34.020(2); Dangberg Holdings v. Douglas Co., 115 Nev. 129, 978 P.2d 311 (1999). Whether a petition for a writ of certiorari will be considered is within this court’s discretion. Dangberg Holdings, 115 Nev. at 138, 978 P.2d at 316. In determining whether a petition for a writ of certiorari should be considered, this court limits its inquiry to whether the inferior tribunal acted in excess of its jurisdiction. Id. As we have previously explained, “if it is determined that the act complained of was within the jurisdiction of the tribunal, our inquiry stops even if the decision or order was incorrect.” Id. (quoting Goicoechea v. District Court, 96 Nev. 287, 289, 607 P.2d 1140, 1141 (1980)).


Because a party aggrieved by a justice court decision has a plain, speedy, and adequate legal remedy in the form of an appeal to the district court, see Nev. Const. art. 6, § 6; Waugh v. Casazza, 85 Nev. 520, 521, 458 P.2d 359, 360 (1969) (recognizing that the district court has final appellate jurisdiction in cases arising in the justice court), this court generally declines to entertain writ petitions requesting review of a district court’s appellate decision. See State of Nevada v. District Court, 116 Nev. 127, 134, 994 P.2d 692, 696 (2000); NRS 34.020(2). In that regard, in order to preserve the finality of the district court’s appellate decision, this court typically will not consider such a petition unless the district court has improperly refused to exercise its jurisdiction or, the matter involves an unsettled issue of statewide importance. State of Nevada, 116 Nev. at 134, 994 P.2d at 697 (explaining that, “[a]lthough loath to deviate from [this court’s] general practice” of not considering writ petitions challenging district courts’ appellate decisions, the court might do so to resolve a split of authority amongst the lower courts on issues of statewide importance).

Here, having considered the petition and the documents submitted in its support, we conclude that petitioner has not shown that deviating from the general rule against reviewing a district court's appellate decision is appropriate. In particular, the district court properly exercised jurisdiction over petitioner's appeal from the justice court's decision, and, in affirming that decision, the district court did not commit error warranting this court's intervention by way of extraordinary relief. See Dangberg Holdings, 115 Nev. at 138, 978 P.2d at 316; State of Nevada, 116 Nev. at 134, 994 P.2d at 697; see also Floyd v. District Court, 36 Nev. 349, 352, 135 P. 922, 923 (1913) (providing that "[e]rrors committed in the exercise of judicial discretion cannot be made the subject of review," nor can they be corrected through an extraordinary writ). Accordingly, we

ORDER the petition DENIED.²


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

²In light of this order, real party in interest is no longer required to file an answer to this writ petition.

cc: Hon. Steven P. Elliott, District Judge
Steven F. Bus
Priscilla (Thebeau) Bresh
Washoe District Court Clerk