

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD A. SCHWEICKERT; LANE J.  
GROW; AND TERRI A. PATRAW,  
Petitioners,

vs.

THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE, AND THE HONORABLE  
JANET J. BERRY, DISTRICT JUDGE,  
Respondents.

No. 52097

**FILED**

OCT 01 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *S. Young*  
DEPUTY CLERK

ORDER GRANTING IN PART AND DENYING IN PART  
PETITION FOR A WRIT OF MANDAMUS

This is an original petition for a writ of mandamus challenging a district court order denying petitioners' petition requesting that the district court convene a grand jury pursuant to NRS 6.130 to investigate alleged corruption occurring at the University of Nevada at Reno (UNR). In denying the petition, the district court found that petitioners "failed to allege sufficient facts to establish any alleged crimes were committed by persons which fall within the authority granted the grand jury pursuant to NRS 172.175." In particular, the district court concluded that NRS 172.175 only applied to alleged misconduct committed by county public officers, and as "the supermajority of Petitioners' allegations involve state officials," the district court determined that NRS 172.175 was not

satisfied.<sup>1</sup> However, NRS 172.175 does not limit grand jury inquiries solely to county public officers. Rather, NRS 172.175 provides, in pertinent part, that a grand jury may be impaneled to inquire into “[t]he misconduct in office of public officers of every description within the county which may constitute a violation of a provision of chapter 197 of NRS.” Petitioners’ allegations are focused on state public officials who appear to fall within the scope of NRS 172.175. Therefore, we conclude that the district court manifestly abused its discretion by denying the petition based on the erroneous reasoning that NRS 172.175 applies only to alleged misconduct of county public officials.<sup>2</sup>

Accordingly, we grant petitioners’ petition for a writ of mandamus in part and direct the district court to consider the petition in light of the correct construction of NRS 172.175, conduct an evidentiary hearing, and make findings in support or rejection of impaneling a grand jury to investigate petitioners’ claims of corruption by UNR officials.

We deny that portion of the petition requesting this court to exercise its authority pursuant to NRS 6.140 to direct the county clerk to select and impanel a grand jury to investigate petitioners’ allegations.

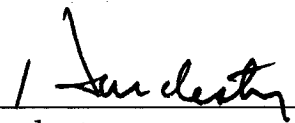
Accordingly, we

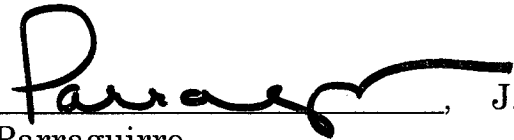
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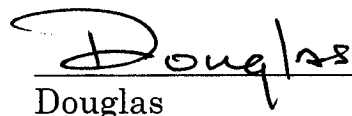
<sup>1</sup>In footnote 4 of the district court’s order denying the petition, the district court cites to NRS 172.175, but assigns language to that provision that is not found in the statute. We are at a loss as to the source of the language the district court assigns to NRS 172.175.

<sup>2</sup>See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

ORDER the petition GRANTED IN PART AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to conduct an evidentiary hearing and consider petitioners' petition in light of the proper construction of NRS 172.175 and make findings of fact in support or rejection of impaneling a grand jury to investigate petitioners' allegations of corruption against UNR officials.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Janet J. Berry, District Judge  
Lane J. Grow  
Terri A. Patraw  
Richard A. Schweickert  
Washoe District Court Clerk