

IN THE SUPREME COURT OF THE STATE OF NEVADA

ASKAR KARABAYEV; NAUM  
VOLOSHIN; AND ROBIN BISARYA,  
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
MARK R. DENTON, DISTRICT JUDGE,  
Respondents,

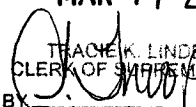
and

ANATOLY VANETIK IN HIS  
CAPACITY AS A DIRECTOR OF  
TURAN PETROLEUM, INC., AND IN  
HIS CAPACITY AS A SHAREHOLDER  
OF TURAN PETROLEUM, INC.,  
Real Parties in Interest.

No. 53273

**FILED**

MAR 17 2010

TRACHE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition for a writ of prohibition challenging a district court order denying a motion to dismiss for lack of personal jurisdiction.

Turan Petroleum, Inc., is a Nevada corporation in the business of developing oil and gas resources in the Republic of Kazakhstan. A dispute over Turan's business direction arose between its officers. Specifically, a dispute developed between real party in interest Anatoly Vanetik and petitioners Askar Karabayev, Naum Voloshin, and Robin Bisarya. Following the dispute, Vanetik filed a complaint in Clark County District Court. Karabayev, Voloshin, and Bisarya (collectively, petitioners) sought to dismiss the complaint against them for lack of personal jurisdiction. Petitioners alleged that they reside in California

and that they never conducted business in Nevada. Petitioners maintain that Turan's corporate offices are located in and its principal place of business is in California. Petitioners further contend that Turan has no property in Nevada and that none of the events involved in this lawsuit took place in Nevada. Petitioners allege that the only nexus between this lawsuit and the State of Nevada is that Turan is incorporated here. The district court found that there was personal jurisdiction and denied the motion to dismiss.<sup>1</sup> The petitioners then filed this petition for a writ of prohibition.

#### Writ of prohibition

Petitioners ask this court to issue a writ of prohibition overturning the district court's finding of personal jurisdiction. Petitioners urge this court to rely on Shaffer v. Heitner, 433 U.S. 186 (1977), which they allege rejects personal jurisdiction based solely on the presence of property in the state. Petitioners argue that Shaffer mandates that this court analyze each officer and director's specific contacts with the forum state to determine if a finding of personal jurisdiction would violate traditional notions of fair play and substantial justice. We conclude that the district court properly found personal jurisdiction over petitioners.

A writ of prohibition is appropriate where a district court exercises unlawful jurisdiction over a defendant. See NRS 34.320. Once a party challenges the exercise of personal jurisdiction, the plaintiff has the burden of making a prima facie showing that jurisdiction is proper. See Davis v. District Court, 97 Nev. 332, 337, 629 P.2d 1209, 1212-13 (1981),

---

<sup>1</sup>The parties are familiar with the facts, and we do not recount them further except as necessary to our disposition.

superseded on other grounds by rule, NRCP 12(b), as stated in *Fritz Hansen A/S v. Dist. Ct.*, 116 Nev. 650, 653, 6 P.3d 982, 983 (2000). Where the facts concerning jurisdiction are not in dispute, we conduct a de novo review of the district court's determination of jurisdiction. *Baker v. Dist. Ct.*, 116 Nev. 527, 531, 999 P.2d 1020, 1023 (2000).

We conclude that petitioners are properly subject to personal jurisdiction in Nevada based upon presence because petitioners “purposefully established minimal contacts” such that jurisdiction “comport[s] with ‘fair play and substantial justice.’” *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476 (1985) (quoting *International Shoe Co. v. Washington*, 326 U.S. 310, 320 (1945)). In this case, petitioners did business in the state, thereby invoking the benefits and protections of Nevada law, caused an effect in the state by an act done elsewhere, and had ownership, use, or possession of a thing in the state. See *Trump v. District Court*, 109 Nev. 687, 699, 857 P.2d 740, 748 (1993). Further, the exercise of personal jurisdiction is reasonable here because: (1) petitioners’ use of Nevada laws and corporate benefits constitutes purposeful interjection into Nevada; (2) petitioners could foresee being hauled into a Nevada court; (3) this action does not significantly conflict with California’s sovereignty; (4) Nevada has a strong interest in protecting corporate activities, especially when the entity is incorporated in Nevada; (5) Nevada is an efficient forum for resolving the dispute; and (6) “coming to Nevada from California is not an excessive burden.” *Welburn v. District Court*, 107 Nev. 105, 107, 806 P.2d 1045, 1047 (1991) (holding that “[a]lthough California is available as an alternative forum . . . on balance[,] the exercise of jurisdiction is reasonable.”); see *Emeterio v. Clint Hurt and Assoc. Inc.*, 114 Nev. 1031, 1036-1037, 967 P.2d 432, 436 (1998)

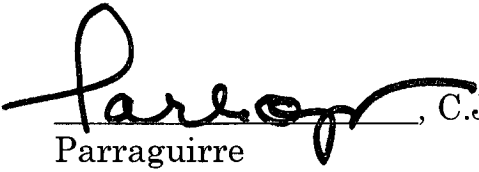
(quoting World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 292 (1980)) (holding that “in determining whether the exercise of personal jurisdiction is reasonable, the United States Supreme Court has set forth five factors to be taken into consideration: (1) ‘the burden on the defendant’ of defending an action in the foreign forum, (2) ‘the forum State’s interest in adjudicating the dispute,’ (3) ‘the plaintiff’s interest in obtaining convenient and effective relief,’ (4) ‘the interstate judicial system’s interest in obtaining the most efficient resolution of controversies,’ and (5) the ‘shared interest of the several States in furthering fundamental substantive social policies’”).

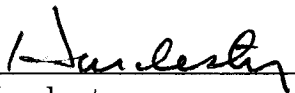
We find further support for the exercise of personal jurisdiction over petitioners in NRS 78.135(1), which dictates the authority of directors and representatives of a Nevada corporation. NRS 78.135(1) specifically contemplates that the articles of incorporation constitute authorization for lawsuits “against the officers or directors of the corporation for violation of their authority.”

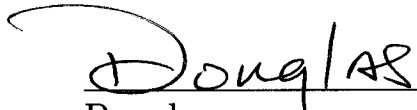
Addressing petitioners’ claim that this court should adopt the holding in Shaffer v. Heitner, 433 U.S. 186 (1977), while we agree with Shaffer that merely serving on the board of a corporation does not automatically subject an individual to personal jurisdiction, we conclude that the facts in this case distinguish it from Shaffer. Unlike here, the directors in Shaffer were not subject to personal jurisdiction in Delaware because the plaintiff did not “indentify any act related to his cause of action as having taken place in Delaware.” Id. at 213. This case does not deal with an exposure of a corporation to claims of third parties in a state other than that of its incorporation, but deals with alleged harm caused directly to the Nevada corporation by its fiduciaries.

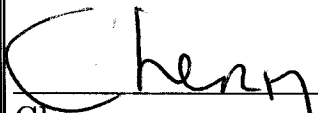
We conclude that the facts establish that petitioners sufficiently invoked the benefits and protections of Nevada law and had the minimum contacts necessary to subject them to the jurisdiction of the Nevada courts. Accordingly, we conclude that the district court did not err in denying petitioners' motion to dismiss for lack of personal jurisdiction and, thus, we deny petitioners' petition for a writ of prohibition.

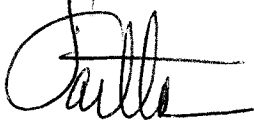
It is so ORDERED.

 , C.J.  
Parraguirre

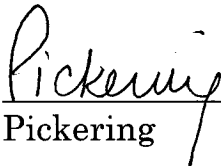
 , J.  
Hardesty

 , J.  
Douglas

 , J.  
Cherry

 , J.  
Saitta

 , J.  
Gibbons

 , J.  
Pickering

cc: Hon. Mark R. Denton, District Judge  
Robin Bisarya  
Askar Karabayev  
Naum Voloshin  
Lee Iglody  
Eighth District Court Clerk