

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

vs.

UNIVERSITY OF NEVADA, RENO,
Respondent.

No. 55145 ✓

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

vs.

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

No. 55181

FILED

JUN 30 2010

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

ORDER DISMISSING APPEAL (DOCKET NO. 55145)
AND DENYING PETITION FOR WRIT OF
MANDAMUS OR PROHIBITION (DOCKET NO. 55181)

Docket No. 55145 is a proper person appeal from district court orders granting in part and denying in part a petition to summon a grand jury and denying a request for a protective order. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge. Docket No. 55181 is an original proper person petition for a writ of mandamus or prohibition seeking an order from this court directing the district court to (1) unseal an order granting in part a petition to summon a grand jury, and (2) stay any further grand jury proceedings.

Docket No. 55145

Regarding the appeal from district court orders resolving the petition to summon a grand jury, no statute or court rule permits an appeal from such orders. See NRAP 3A(b) (listing appealable

determinations); Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 209, 678 P.2d 1152, 1153 (1984) (stating that parties may only appeal when authorized by statute or court rule). Rather, parties seeking to challenge such orders in this court must do so by filing a petition for extraordinary relief in this court. See NRS 6.140 (noting that if the district court refuses or fails to select a grand jury when required under NRS 6.110-6.132, inclusive, the proper procedure is to “apply” to the supreme court); see also Gier v. District Court, 106 Nev. 208, 789 P.2d 1245 (1990) (resolving a petition for writ of mandamus or prohibition that challenged a district court order impaneling a grand jury under NRS 6.120), and Sawyer v. District Court, 82 Nev. 53, 410 P.2d 748 (1966) (resolving a writ petition seeking to bar the district court from impaneling a state grand jury under NRS 6.135). Similarly, while NRAP 3A(b)(3) allows for an appeal from a district court order denying an injunction, no statute or court rule provides for an appeal from an order denying a request for a protective order. NRAP 3A(b); Taylor Constr. Co., 100 Nev. at 209, 678 P.2d at 1153. Accordingly, as we lack jurisdiction to consider this appeal, we dismiss it. We note, however, that this dismissal is without prejudice to appellants’ right to challenge the above mentioned district court orders by filing a petition for extraordinary relief in this court.

Docket No. 55181

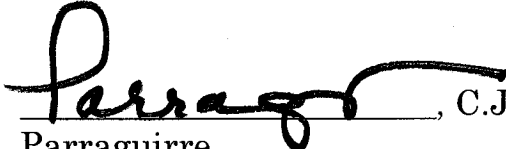
Turning to the original petition for a writ of mandamus or prohibition, to the extent that petitioners challenge the propriety of the district court sealing its order, before seeking such relief in this court, a party must first seek to unseal a document in district court. See SRCR 4(2) (directing the parties initially to the district court to seek to unseal a court document). Here, however, we are unable to evaluate this argument because petitioners have failed to support their petition for extraordinary

relief with documentation demonstrating that they did, in fact, first seek relief in the district court. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (explaining that it is petitioners' burden to demonstrate that extraordinary intervention is warranted); NRAP 21(a)(4) (stating that an appendix accompanying a petition for extraordinary relief shall include all documents "essential to understand the matters set forth in the petition").


With regard to petitioners' argument that the appeal in Docket No. 55145 stayed any further action regarding the grand jury proceedings, we note that because this court lacks jurisdiction over the appeal in Docket No. 55145, as set forth above, the appeal was never perfected and thus the district court was not divested of its jurisdiction over the grand jury proceedings. See Mack-Manley v. Manley, 122 Nev. 849, 855, 138 P.3d 525, 529-30 (2006) (explaining that the perfection of an appeal divests the district court of jurisdiction).

Accordingly, because we conclude that relief is not warranted, we deny the petition. NRAP 21(b)(1); Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).¹

It is so ORDERED.


Parraguirre, C.J.


Douglas, J.


Pickering, J.

¹In light of this order, we deny all pending motions as moot.

cc: Hon. Connie J. Steinheimer, District Judge
Lane J. Grow
Terri A. Patraw
Richard A. Schweickert
Charles Hilsabeck
Washoe District Court Clerk