

IN THE SUPREME COURT OF THE STATE OF NEVADA

LINDA D. JOHNSON,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
DONALD M. MOSLEY, DISTRICT
JUDGE,

Respondents,

and

CITY OF LAS VEGAS,
Real Party in Interest.

No. 55160

FILED

MAR 11 2010

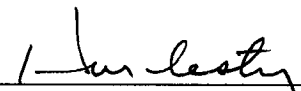
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

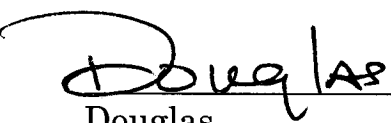
ORDER GRANTING PETITION

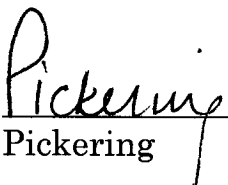
This original petition for a writ of mandamus or prohibition challenges a district court order denying petitioner's motion to dismiss the real party in interest's appeal from a municipal court ruling for lack of jurisdiction. At petitioner's trial in municipal court for misdemeanor DUI, she objected, pursuant to NRS 50.315, to the admission of an affidavit of the nurse who drew petitioner's blood. The municipal court sustained petitioner's objection, concluding that she had raised a "substantial and bona fide dispute" under NRS 50.315, and required the real party in interest to produce the nurse. Subsequently, the real party in interest appealed the court's ruling to the district court. Thereafter, petitioner filed a motion to dismiss the appeal on the ground that the district court lacked jurisdiction. The district court denied the motion to dismiss and resolved the real party in interest's appeal on the merits.

We conclude that the district court lacked jurisdiction to consider the real party in interest's appeal. NRS 189.120 allows the State to appeal to the district court from a justice court order granting a defendant's motion to suppress. See NRS 5.073 (providing conformity of practice and proceedings in municipal court to those of justice courts). Here, the municipal court did not suppress the challenged evidence but rather compelled the real party in interest to introduce it in a manner consistent with petitioner's Sixth Amendment right to confront witnesses. Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate its order granting the real party in interest's appeal and enter an order dismissing the appeal for lack of jurisdiction.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Donald M. Mosley, District Judge
Law Offices of John G. Watkins
Las Vegas City Attorney
Eighth District Court Clerk