

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK ORTIZ,
Appellant,
vs.
RON NIMAN, JUSTICE OF THE
PEACE, ELY TOWNSHIP NO. 1
JUSTICE COURT,
Respondent.

No. 55277

FILED

MAY 02 2011

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

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from a district court order denying a proper person petition for a writ of mandamus. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

Appellant filed a proper person petition for a writ of mandamus in district court challenging the justice court's refusal to process his appeal of an adverse decision regarding a small claims matter. Respondent filed a motion to dismiss, asserting that this court had already denied a near identical proper person petition for a writ of mandamus filed by appellant on the basis that appellant had failed to support his petition with necessary documentation, such as a copy of the notice of appeal he alleged the justice court failed to process. See generally Ortiz v. Justice Court, Docket No. 50711 (Order Denying Petition, June 13, 2008). Based on this denial, respondent argued that the district court petition should similarly be denied on either mootness or law-of-the-case grounds. Attached to this filing, respondent included, among other things, a copy of the justice court's dismissal order and the notice of appeal to the district court.

Thereafter, the district court entered an order denying the petition, concluding that appellant's district court petition, like his

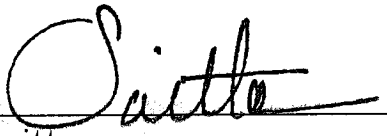
petition to this court, lacked the necessary documentation and that, accordingly, under law-of-the-case principles, the district court petition should be rejected.¹ Appellant appealed to this court and filed a proper person appeal statement. Respondent has filed a response, as directed, and appellant has filed a reply.

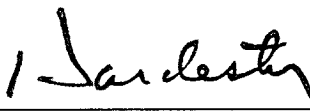
This court reviews the district court's denial of a petition for a writ of mandamus for an abuse of discretion. Burgess v. Storey County, 116 Nev. 121, 124, 992 P.2d 856, 858 (2000). Under the law-of-the-case doctrine, when an appellate court decides a matter of law, that decision governs the same issues in all subsequent proceedings for that case. Dictor v. Creative Management Services, 126 Nev. ___, ___, 223 P.3d 332, 334 (2010) (setting forth the parameters of the doctrine of law of the case); see also Hsu v. County of Clark, 123 Nev. 625, 629-31, 173 P.3d 724, 728-29 (2007) (same). Here, there were three key differences between the prior original proceedings in this court and the current matter which originated in district court that rendered the application of the law-of-the-case doctrine inappropriate. First, while supplied by respondent and not appellant, unlike the situation in this court, the district court had before it both the justice court's decision and the unprocessed notice of appeal. Second, the district court order does not cite to an NRCP or district court rule provision equivalent to NRAP 21(a)(4), the authority on which this court based its decision. Third and finally, appellant's district court writ petition was an original filing rather than a continuation of the writ

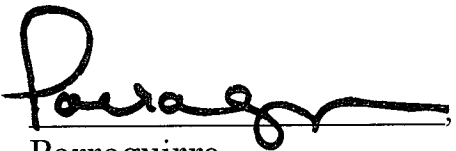
¹Although the district court labeled its order as one granting the motion to dismiss, we construe this order as effectively denying the petition rather than as dismissing it.

proceeding filed in this court. Thus, we conclude that the district court abused its discretion in declining to review the merits of appellant's writ petition.² Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.³


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Steve L. Dobrescu, District Judge
Frank Ortiz
Attorney General/Ely
White Pine County Clerk

²We are not persuaded by respondent's argument that the lack of appellant's justice court opening and reply briefs and motion to proceed in forma pauperis is necessarily fatal to a review of the merits of appellant's district court writ petition.

³Given our resolution of this appeal, we decline to address appellant's requests, made in his civil proper person appeal statement, that this court reprimand respondent, declare that NRAP 24 should govern proceedings in district court once in forma pauperis status has been granted, and address the merits of his justice court case.