

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTINA MARIE CEPEDA,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
STEVEN R. KOSACH, DISTRICT
JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 55935

FILED

SEP 09 2010

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

ORDER GRANTING PETITION IN PART

This original petition for a writ of prohibition, mandamus, or certiorari challenges a district court's order affirming a conviction in the justice court.

Petitioner was tried and convicted in the justice court of driving while on a suspended license due to a DUI conviction. On appeal, the district court determined that the justice court's findings were supported by substantial evidence.

Because a petition for an extraordinary writ is addressed to this court's sound discretion, Zamarripa v. District Court, 103 Nev. 638, 640, 747 P.2d 1386, 1387 (1987); State ex rel. Dep't Transp. v. Thompson, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983); Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982), the threshold issue is whether we should exercise that discretion and consider the petition.

Extraordinary relief may be appropriate where a tribunal,

board, or officer has exceeded its jurisdiction or acted in an arbitrary or capricious manner, or such relief may be used to compel the performance of an act required by law. See NRS 34.160; NRS 34.320; Zamarippa, 103 Nev. at 640, 747 P.2d at 1387; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). This court will not entertain a petition when the petitioner has a plain, speedy, and adequate remedy at law. NRS 34.020(2) (certiorari); NRS 34.170 (mandamus); NRS 34.330 (prohibition). When exercising its discretion, this court may entertain petitions for extraordinary relief when judicial economy and sound judicial administration militate in favor of writ review. See State v. Babayan, 106 Nev. 155, 174, 787 P.2d 805, 819-20 (1990). Additionally, this court may exercise its discretion and entertain a writ petition when “an important issue of law requires clarification.” State v. Dist. Ct. (Epperson), 120 Nev. 254, 258, 89 P.3d 663, 665-66 (2004) (quotation marks and citation omitted).

We conclude that writ review is appropriate here in the interest of sound judicial administration. Because decisions of the justice court are appealable to the district court and the district court’s decision on appeal is final, Nev. Const. art. 6, § 6; Zamarippa, 103 Nev. at 640, 747 P.2d at 1387, Cepeda has no further remedy at law by which she could challenge her conviction. Further, this case involves interpretation of a statute with important policy concerns, namely the proof required to sustain a conviction. A petition is appropriately before this court on that limited issue.¹ See Garcia v. Dist. Ct., 117 Nev. 697, 700-01, 30 P.3d 1110,

¹Petitioner also requests that this court decide whether the justice court impermissibly shifted the burden of proof and improperly refused to

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1112 (2001) (holding that review appropriate to determine the mental state required for a crime); State of Nevada v. Dist. Ct., 116 Nev. 127, 134, 994 P.2d 692, 697 (2000) (holding that intervention necessary to resolve split in authority between justice courts).

Cepeda argues that a prior DUI conviction is an element of the offense of driving while suspended under NRS 483.560(2). She contends that her conviction pursuant to NRS 483.560(2) is invalid because the State did not prove that her license had been suspended due to a prior DUI conviction. We disagree with Cepeda's interpretation of NRS 483.560(2). NRS 483.560(1) provides that any person who operates a motor vehicle when that person's license has been cancelled, revoked, or suspended is guilty of a misdemeanor. NRS 483.560(2) restricts the justice court's sentencing discretion where the driver's license has been revoked or suspended due to, among other circumstances, a prior DUI conviction. It does not create a separate offense. However, as the record does not indicate that the State presented evidence supporting the sentence under NRS 483.560(2), we grant the petition and direct the district court to remand the matter to the justice court for resentencing.

Accordingly, we

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allow her to rebut the presumption that she received notice that her driver's license was suspended. We decline to consider these claims because the district court has final appellate jurisdiction over the justice courts and the claims do not involve issues of statutory interpretation or require the resolution of a split in lower court authority.

ORDER the petition GRANTED IN PART AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to remand this matter to the justice court for resentencing.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Steven R. Kosach, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk