


IN THE SUPREME COURT OF THE STATE OF NEVADA

CATHOLIC DIOCESE OF GREEN BAY,
INC.,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
VALORIE J. VEGA, DISTRICT JUDGE,
Respondents,
and
JOHN DOE 119,
Real Party in Interest.

No. 56411

FILED

SEP 14 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges the district court's denial of petitioner's motions for summary judgment.

We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time. In light of the general adequacy of an appeal and our extensive docket, we typically decline to exercise our discretion to consider a writ petition challenging a district court order that denies a motion for summary judgment, unless "no disputed factual issues exist and, pursuant to clear authority under a statute or rule, the district court is obligated to dismiss an action." Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d

280, 281 (1997). As to the statute of limitations, factual issues exist, and thus, the district court was not clearly obligated to dismiss the action on summary judgment. Moreover, once the factual issues are resolved by the trier of fact, the legal issues will be more appropriately resolved. Thus, writ relief based on the statute of limitations is not warranted at this time. Id.

Personal jurisdiction objections may warrant an exception to the policy of declining to consider a writ petition challenging a pretrial order denying dismissal. Here, real party in interest permissibly made a prima facie showing of personal jurisdiction based on affidavits, depositions, and other discovery materials. See Trump v. District Court, 109 Nev. 687, 692-93, 857 P.2d 740, 743-44 (1993) (holding that when a defendant challenges personal jurisdiction, the plaintiff may make a prima facie showing of jurisdiction prior to trial and then prove personal jurisdiction by a preponderance of the evidence at trial). Thus, we conclude that writ relief is not warranted at this time because the district court must still hold an evidentiary hearing, either at or before trial, during which real party in interest must prove personal jurisdiction by a preponderance of the evidence. See id. at 694, 857 P.2d at 744 (explaining that when a plaintiff has made a prima facie case in a nonevidentiary hearing prior to trial, “the defendant may still require the plaintiff to prove personal jurisdiction by a preponderance of the evidence in a pretrial evidentiary hearing rather than being forced to wait until trial to put the plaintiff to full proof”).¹

¹In light of this order, we deny as moot petitioner’s request for a stay of the district court proceedings, included in the petition.

Accordingly, we order the petition denied, without prejudice to its renewal following the district court's order after the evidentiary hearing pursuant to Trump.

It is so ORDERED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Valorie Vega, District Judge
Barron & Pruitt, LLP
Crockett & Myers
Jeff Anderson & Associates, P.A.
Eighth District Court Clerk