

IN THE SUPREME COURT OF THE STATE OF NEVADA

INTERNATIONAL FIDELITY  
INSURANCE COMPANY,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
JENNIFER TOGLIATTI, DISTRICT  
JUDGE,

Respondents,

and

THE STATE OF NEVADA,

Real Party in Interest.

No. 58252

**FILED**

MAR 30 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Angela*  
DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition for a writ of mandamus challenging a district court order denying petitioner International Fidelity Insurance Company (IFIC)'s motion to exonerate certain bail bonds. Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

IFIC is a surety insurer that appointed bail agent Lloyd Henderson, d.b.a. Free At Last Bail Bonds (collectively, Free At Last) to execute its bonds. Free At Last posted three bonds for a defendant who was charged with six offenses. Each bond covered two charges. Two of the three bonds were posted in amounts that exceeded the amounts specified by their accompanying powers of attorney. When the defendant failed to appear for a hearing, the district court issued a bench warrant and notices of intent to forfeit for the bonds. IFIC filed a motion to exonerate the bonds, arguing that Free At Last had violated the anti-stacking provision of the bond powers by posting a single bond for more than one criminal

count, and that two of the bonds were posted in monetary amounts that exceeded the amounts authorized by their attached powers.


The district court denied the motion; however, it exonerated the portions of the two bonds that exceeded the amounts specified by their respective powers. The district court, relying on United States v. Gil, 657 F.2d 712, 714 n.2 (5th Cir. 1981), defined “stacking” as “the use of two or more bond powers to reach an individual bail amount,” and concluded that “[t]he application of more than one count to a single bond does not constitute stacking, nor does it violate the terms of the Powers of Attorney attached to the Bonds in question.” It noted that its decision was “supported by the fact that each Bond expressly states that it applies to the ‘charge(s)’ identified thereon, thus implying that such Bond may be used for more than one charge or count.”


“A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust or station, NRS 34.160, or to control an arbitrary or capricious exercise of discretion.” State v. Dist. Ct., 116 Nev. 374, 379, 997 P.2d 126, 130 (2000). “Mandamus is an extraordinary remedy which ‘will not lie to control discretionary action, unless discretion is manifestly abused or is exercised arbitrarily or capriciously.’” Mineral County v. State, Dep’t of Conserv., 117 Nev. 235, 243, 20 P.3d 800, 805 (2001) (quoting Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981) (citation omitted)).

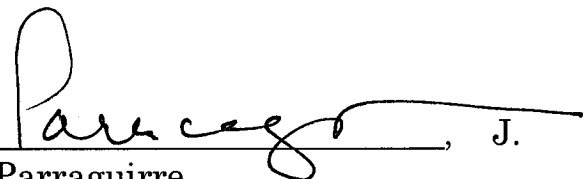
Here, IFIC has failed to establish that the district court manifestly abused its discretion in allowing single bonds to post for multiple bail amounts. To the extent that the bond amounts exceeded the maximum amounts authorized by their accompanying powers of attorney,

the district court correctly exonerated the excess of each bond, but not the entire bond. Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Jennifer P. Togliatti, District Judge  
Jones Vargas/Las Vegas  
Attorney General/Carson City  
Clark County District Attorney  
Olson, Cannon, Gormley & Desruisseaux  
Eighth District Court Clerk