

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONNA-MAREE WARD,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
SANDRA L. POMRENZE, DISTRICT
JUDGE,

Respondents,

and

MICHAEL ALAN HOOBLER,
Real Party in Interest.

No. 58372

FILED

JUN 09 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

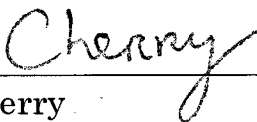
ORDER DISMISSING PETITION FOR WRITS OF
PROHIBITION AND MANDAMUS WITHOUT PREJUDICE


This is an original petition for a writ of prohibition and mandamus challenging a district court's oral ruling denying NRCP 60(b) relief.

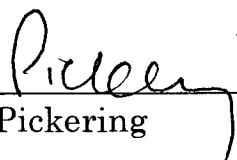
In her petition, petitioner asserts that real party in interest filed a Chapter 7 bankruptcy petition in January 2011 in the United States Bankruptcy Court for the Eastern District of California. The filing of a bankruptcy petition operates to stay, automatically, the "continuation" of any "judicial . . . action . . . against the [bankruptcy] debtor." 11 U.S.C. § 362(a)(1). Accordingly, the automatic bankruptcy stay applies to this writ petition. Given the applicability of the automatic stay, this petition may linger on this court's docket. As a result, we conclude that judicial efficiency will be best served if this petition is dismissed, without prejudice to petitioner's right to file a new writ petition

upon the lifting of the bankruptcy stay, if appropriate at that time. Because a dismissal without prejudice will not require this court to reach the merits of this petition and is not inconsistent with the primary purpose of the bankruptcy stay—to provide protection for debtors and creditors—we further conclude that such a dismissal will not violate the bankruptcy stay. See Dean v. Trans World Airlines, Inc., 72 F.3d 754, 756 (9th Cir. 1995) (holding that a post-bankruptcy dismissal will violate the automatic stay “where the decision to dismiss first requires the court to consider other issues presented by or related to the underlying case”); see also IUFA v. Pan American, 966 F.2d 457, 459 (9th Cir. 1992) (holding that the automatic stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of [11 U.S.C. § 362(a)]”). Accordingly, we dismiss the petition, without prejudice.

It is so ORDERED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Sandra L. Pomrenze, District Judge, Family Court Division
Michael A. Root
Michael Alan Hoobler
Eighth District Court Clerk