

IN THE SUPREME COURT OF THE STATE OF NEVADA

CECILY VALDES,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
SUSAN JOHNSON, DISTRICT JUDGE,
Respondents,
and
GLORIA MARTINEZ,
Real Party in Interest.

No. 58475

FILED

JAN 17 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Angosa*
DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court order granting a motion to compel discovery and declining to issue a protective order.

This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court's jurisdiction.¹ NRS 34.320; Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). Writ relief is generally not available, however, when a plain, speedy, and adequate legal remedy exists. NRS 34.330; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Moreover, writ relief is only

¹In Wardleigh v. District Court, 111 Nev. 345, 350, 891 P.2d 1180, 1183 (1995), this court held that "prohibition is a more appropriate remedy for the prevention of improper discovery than mandamus." Accordingly, we deny petitioner's alternative request for mandamus relief.

appropriate to review the district court's discovery orders in situations "of a magnitude that could require the imposition of such drastic remedies as dismissal with prejudice or other similar sanctions." Valley Health System v. Dist. Ct., 127 Nev. ___, ___, 252 P.3d 676, 679 (2011) (quoting Wardleigh v. District Court, 111 Nev. 345, 351, 891 P.2d 1180, 1184 (1995)). Thus, this court has primarily exercised its discretion to grant writ relief to prevent improper discovery in only two situations—when the district court has issued a blanket discovery order with no regard to relevance or when the discovery order compels disclosure of privileged information.² Valley Health System, 127 Nev. at ___, 252 P.3d at 679.

Here, although petitioner asserts that the district court's order constituted a blanket discovery order, the record before us does not support this conclusion. Instead, the discovery order merely permits real party in interest to explore a specific area of evidence relevant to the truthfulness of petitioner and her potential witnesses. See NRS 50.085(3) (providing that a party may cross examine a witness with regard to specific instances of conduct relevant to the witness's truthfulness). Thus, petitioner has not met her burden of showing that the district court acted in excess of its jurisdiction by granting the motion to compel or by declining to issue a protective order.³ See Valley Health System, 127 Nev.

²Petitioner has not argued that the discovery order at issue compels the disclosure of privileged information.


³We do not consider petitioner's arguments, raised for the first time in her reply brief, that evidence regarding petitioner's allegedly fraudulently obtained Texas insurance policy would be inadmissible because it would demonstrate that she received payment from a collateral source, or that the probative value of the evidence sought would be

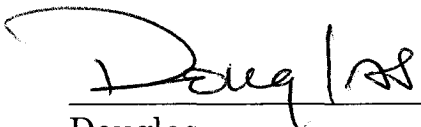
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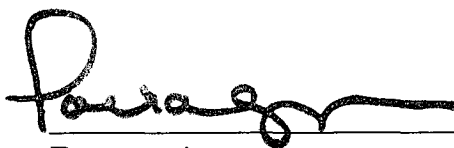
at ___, 252 P.3d at 678-79 (discussing the situations in which writ relief is appropriate to prevent improper discovery); Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (explaining that “[p]etitioners carry the burden of demonstrating that extraordinary relief is warranted”).

Accordingly, we

ORDER the petition DENIED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. Susan Johnson, District Judge
Bruce D. Schupp
Vannah & Vannah
Schuetze & McGaha, P.C.
Eighth District Court Clerk

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outweighed by any potential prejudice. Cf. Bongiovi v. Sullivan, 122 Nev. 556, 570 n.5, 138 P.3d 433, 444 n.5 (2006) (declining to consider an issue raised for the first time in appellant’s reply brief).