

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID LARSEN,  
Petitioner,  
vs.  
THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE; AND THE HONORABLE  
JANET J. BERRY, DISTRICT JUDGE,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 60214

FILED

MAR 07 2012

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

ORDER DENYING PETITION

This original petition for a writ of certiorari or, in the alternative, mandamus challenges the district court's order resolving an appeal from a justice court conviction.

Petitioner was tried and convicted in the justice court of violating an extended order of protection against domestic violence. On appeal, the district court interpreted NRS 33.100 to require "the State to prove that a defendant intended the act that resulted in a violation of the TPO, not that the defendant intended to violate the TPO." The district court concluded that petitioner's conviction was 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; Zamarippa, 103 Nev. at 640, 747 P.2d at 1387; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (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). 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).

Petitioner argues that the plain language of NRS 33.100 requires the State to prove that he intended to violate the court’s temporary protection order when he acted in violation of the order, not merely that he intended the act which violated the order. He asserts his due process rights were violated by the trial court’s implicit establishment of a presumption that intent exists where the evidence demonstrates that the defendant had notice of the protective order and committed an act that violated the order. He also asserts that the interpretation violates equal protection because it arbitrarily punishes one group of defendants without intent to violate the statute while exempting others from punishment. He

contends that the statute can be constitutionally interpreted to forbid only an act done with the intent to violate the order.<sup>1</sup>

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, Larsen has no further remedy at law by which he could challenge his conviction. Further, this case involves the 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 issue. See Garcia v. Dist. Ct., 117 Nev. 697, 700-01, 30 P.3d 1110, 1112 (2001) (holding that writ review appropriate to determine the mental state required for a crime).


After reviewing this petition and its supporting documentation, we are not persuaded that this court's intervention by way of extraordinary writ relief is warranted. The district court's interpretation of the statute is consistent with the concerns noted in the legislative history, notably, to avoid criminal liability for inadvertent

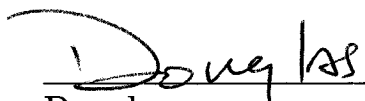
---

<sup>1</sup>"A writ of certiorari is appropriate to remedy jurisdictional excesses committed by an inferior tribunal, board, or officer, exercising judicial functions." Las Vegas Police Prot. Ass'n v. Dist. Ct., 122 Nev. 230, 241, 130 P.3d 182, 190 (2006); NRS 34.020(2). In addition, "[w]e are authorized to review a petition for a writ of certiorari in cases where the district court has considered the constitutionality of a statute or ordinance." Silvar v. Dist. Ct., 122 Nev. 289, 292, 129 P.3d 682, 684 (2006). Because the district court had jurisdiction to consider petitioner's appeal from the justice court and did not consider the constitutionality of the statute, we determine that a writ of certiorari is not the appropriate mechanism for this matter.

contact. Moreover, the interpretation is consistent with the principle that mistake of law is not a defense to a criminal action. See Whiterock v. State, 112 Nev. 775, 782, 918 P.2d 1309, 1314 (1996) (recognizing that ignorance of the law has never been an excuse for criminal conduct). As to his due process argument, the district court's conclusion did not implicitly rely on a presumption that petitioner's actions were intended to violate the court order merely because he had received notice of the protective order. Instead, the facts indicate that he intended to meet with the subject of the protective order. Regarding his equal protection argument, petitioner does not assert that he is in a protected class or that the statute lacked a rational basis. See Gaines v. State, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000) (setting forth the legal framework for an equal protection analysis). Accordingly, we

ORDER the petition DENIED.

  
Gibbons, J.  
Gibbons

  
Douglas, J.  
Douglas

  
Parraguirre, J.  
Parraguirre

cc: Hon. Janet J. Berry, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk