

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Petitioner,
vs.
THE THIRD JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF LYON;
AND THE HONORABLE WILLIAM
ROGERS, DISTRICT JUDGE,
Respondents,
and
ALEXANDER STEVEN KING,
Real Party in Interest.

No. 60770

FILED

MAY 15 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Malone*
DEPUTY CLERK

ORDER DENYING PETITION

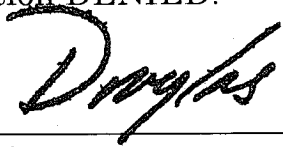
This original petition for a writ of mandamus challenges a district court ruling that real party in interest Alexander Steven King is not entitled to have a jury determine his sentence pursuant to NRS 175.552, despite a plea agreement with the State that included a provision that King would be sentenced by a jury. Having considered the petition and the documents submitted, we conclude that the district court did not manifestly abuse its discretion or exercise its discretion in an arbitrary or capricious manner. NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).


The State contends that NRS 175.552 is ambiguous because subsections 1(c) and 4 conflict and the legislative history supports a conclusion that the parties were free to agree to jury sentencing as a term of King's guilty plea. We disagree. Based on the plain language of NRS 175.552 and reading the statute as a whole, see Mangarella v. State, 117 Nev. 130, 133, 17 P.3d 989, 991 (2001) ("Statutes should be given their plain meaning and must be construed as a whole and not be read in a way

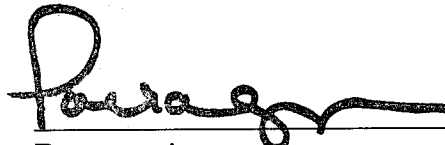
that would render words or phrases superfluous or make a provision nugatory” (internal quotations omitted); Pellegrini v. State, 117 Nev. 860, 874, 34 P.3d 519, 528-29 (2001), the district correctly determined that subsection 1(c) of the statute does not permit sentencing by a jury where a defendant has pleaded guilty to first-degree murder and the death penalty is not sought. We conclude that subsection 4 merely qualifies subsections 1(a) and (c) by identifying the sentencing options that may be imposed where death is not sought. The language “the jury or the trial judge shall determine [the sentence]” simply accounts for the differences in subsections 1(a) and (c) relating to whether the finding of guilt is made by a jury or guilty plea.

Accordingly, we

ORDER the petition DENIED.¹


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. William Rogers, District Judge
Lyon County District Attorney
Pederson & Kalter, P.C./Yerington
Lyon County Clerk

¹To the extent that the State suggests that NRS 175.552(1)(c) does not apply because Judge David Huff accepted the plea, not Judge William Rogers, we reject that interpretation as unreasonable where Judge Rogers succeeded Judge Huff due to the creation of the Tenth Judicial District Court and Judge Huff's death.