

IN THE SUPREME COURT OF THE STATE OF NEVADA

TODD MCGRATH; AND PIZZA HUT OF AMERICA, INC., A FOREIGN CORPORATION DOING BUSINESS IN NEVADA,
Petitioners,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE JESSIE ELIZABETH WALSH, DISTRICT JUDGE,
Respondents,
and
JEREMY DAMERY,
Real Party in Interest.

No. 61464

FILED

AUG 14 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges an oral district court ruling granting a motion to exclude evidence at trial.


The petition raises serious questions as to the appropriateness of the district court's pretrial evidentiary ruling. Nonetheless, such a determination "is not, under the prior holdings of this court, [ordinarily] a question properly addressed in a petition for a writ of mandate." Walton v. District Court, 94 Nev. 690, 693, 586 P.2d 309, 311 (1978). Extraordinary relief may be justified "where an important issue of law needs clarification and public policy is served by this court's invocation of its original jurisdiction." Lowe Enterprises v. Dist. Ct., 118 Nev. 92, 97, 40 P.3d 405, 408 (2002) (quotations omitted). Mere evidentiary error generally does not warrant our intervention. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (mandamus relief is purely


discretionary with this court); Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (petitioner bears the burden to demonstrate that our extraordinary intervention is warranted). The opportunity to appeal an adverse final judgment affords an adequate legal remedy for evidentiary errors of consequence to the determination of the case. Id. at 693, 586 P.2d at 310. As it does not appear, from the documents provided with the writ petition, that a written order has been entered, this petition is improper, as an oral order is ineffective because the district court remains free to reconsider the issue. State, Div. Child & Fam. Servs. v. Dist. Ct., 120 Nev. 445, 451, 92 P.3d 1239, 1243 (2004).

For these reasons, we conclude that our intervention by way of extraordinary relief is not warranted. NRAP 21(b)(1); Smith, 107 Nev. at 677, 818 P.2d at 851. Accordingly, we

ORDER the petition DENIED.¹


_____, J.
Douglas


_____, J.
Saitta


_____, J.
Pickering

¹Petitioners' emergency motion for a stay of the district court proceedings is denied as moot in light of this order.

cc: Hon. Jessie Elizabeth Walsh, District Judge
Jones Vargas/Reno
Fennemore Craig Jones Vargas/Las Vegas
Thorndal Armstrong Delk Balkenbush & Eisinger/Las Vegas
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Schuetze & McGaha, P.C.
Eglet Wall
Eighth District Court Clerk