

IN THE SUPREME COURT OF THE STATE OF NEVADA

FLORENCIO LASA; JOYCE LASA;  
OTESA/MHP, A CALIFORNIA  
PARTNERSHIP; MCKAY FLORENCE; AND  
GERALD L. STORZ,

Petitioners,

vs.

THE SECOND JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR  
THE COUNTY OF WASHOE, AND THE  
HONORABLE CONNIE J. STEINHEIMER,  
DISTRICT JUDGE,

Respondents,

and

PONY EXPRESS OF SPARKS, LTD., A  
NEVADA LIMITED LIABILITY COMPANY;  
RICHARD WAYNE ECKLEY; AND GINA J.  
DIVECCHIO,

Real Parties In Interest.

No. 36102

**FILED**

FEB 06 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

This is an original petition for a writ of prohibition directing the district court to refrain from exercising personal jurisdiction over petitioners.

Petitioners contend that a writ of prohibition is warranted, ordering the district court to refrain from exercising personal jurisdiction over them because they lack sufficient minimum contacts with Nevada. We conclude that the district court correctly determined that real parties in interest herein and plaintiffs below established a prima facie showing of personal jurisdiction.

When a party challenges personal jurisdiction, the plaintiff has the burden of producing evidence that establishes a prima facie showing of jurisdiction. See Trump v. District Court, 109 Nev. 687, 692, 857 P.2d 740, 743 (1993). Although factual disputes are resolved in favor of the plaintiff, "the plaintiff must introduce some evidence and

may not simply rely on the allegations of the complaint to establish personal jurisdiction." Id. at 693, 857 P.2d at 744. This court reviews a district court's determination regarding personal jurisdiction de novo. See Hospital Corp. of America v. District Court, 112 Nev. 1159, 1160, 924 P.2d 725, 725 (1996). Moreover, the issuance of a writ of prohibition is within the sound discretion of this court. See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

The underlying cause of action arises from alleged fraud in the sale of the Pony Express Mobile Home Park located in Sparks, Nevada. Petitioners Florencio Lasa and Joyce Lasa (the "Lasas") are husband and wife and California residents. Petitioner OTESA/MHP is a California general partnership. The Lasas, as general partners of OTESA/MHP, owned and operated the Pony Express Mobile Home Park from 1987 until it was sold in 1998.<sup>1</sup>

Petitioner Gerald L. Storz is the sole proprietor of Storz Realty and a licensed California real estate broker. Petitioner McKay Florence is a real estate salesman and a former employee of Storz. Florence obtained the listing on the Pony Express Mobile Home Park for the benefit of Storz. Neither Florence nor Storz is licensed in Nevada as a real estate broker or salesman. Further, neither Florence nor Storz associated with a Nevada real estate licensee as part of the real estate transaction.

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<sup>1</sup>Although there is a factual dispute as to who actually owned the mobile home park when it was sold in 1998, factual disputes regarding personal jurisdiction are resolved in favor of the plaintiff. See Casentini v. District Court, 110 Nev. 721, 725-26, 877 P.2d 535, 538 (1994). Accordingly, for purposes of this original writ petition, plaintiffs' assertion that OTESA/MHP owned the mobile home park at the time it was sold is accepted as true.

In order for a Nevada court to exercise personal jurisdiction over a nonresident defendant, it must be consistent with our long-arm statute and with the Due Process Clause of the United States Constitution. Trump, 109 Nev. at 698, 857 P.2d at 747. Nevada's long-arm statute states that "[a] court of this state may exercise jurisdiction over a party to a civil action on any basis not inconsistent with the constitution of this state or the Constitution of the United States." NRS 14.065(1).

The Due Process Clause requires that a nonresident defendant must have "certain minimum contacts with [the forum state] such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945) (quoting Milliken v. Meyer, 311 U.S. 457, 463 (1940)); see also Emeterio v. Clint Hurt and Assocs., 114 Nev. 1031, 1035, 967 P.2d 432, 435 (1998). Further, the nonresident defendant's contacts with the forum state must be such that the defendant "could reasonably anticipate being haled into court there." Trump, 109 Nev. at 699, 857 P.2d at 748. However, "[i]t is the quality of these contacts, . . . and not the quantity, that confers personal jurisdiction." Id. at 700, 857 P.2d at 749 (quoting Brainerd v. Governors of the Univ. of Alberta, 873 F.2d 1257, 1259 (9th Cir. 1989)).

Personal jurisdiction may be general or specific. See Firouzabadi v. District Court, 110 Nev. 1348, 1352, 885 P.2d 616, 619 (1994). Under Nevada law, it is proper to assert general personal jurisdiction "where the defendant's activities in the forum state are so substantial or continuous and systematic that it may be deemed present in the forum and hence subject to suit over claims unrelated to its activities there." Id. Conversely, specific personal jurisdiction "may

be established only where the cause of action arises from the defendant's contacts with the forum.'" Id. at 1352-53, 885 P.2d at 619 (quoting Budget Rent-A-Car v. District Court, 108 Nev. 483, 485, 835 P.2d 17, 19 (1992)).

In this case, petitioners' activities in Nevada are not "so substantial or continuous and systematic" as to justify the exercise of general personal jurisdiction over them. But because the underlying cause of action arose from petitioners' contacts with Nevada, the exercise of specific personal jurisdiction may be warranted if petitioners "purposefully availed" themselves of the privileges of conducting activities in Nevada. In Nevada, the exercise of specific personal jurisdiction over a nonresident defendant is warranted if:

(1) the defendant purposefully avails himself of the privilege of serving the market in the forum or of enjoying the protection of the laws of the forum, or where the defendant purposefully establishes contacts with the forum state and affirmatively directs conduct toward the forum state, and (2) the cause of action arises from that purposeful contact with the forum or conduct targeting the forum.

Trump, 109 Nev. at 699-700, 857 P.2d at 748.

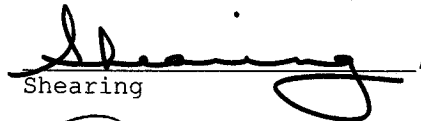
Petitioners contend that they do not meet the "purposeful availment" test because they did not direct any actions in Nevada, and because they did not seek the protection and benefits of the laws of Nevada. Petitioners argue that when the real estate transaction was negotiated, all parties were residents of California. Further, petitioners assert that the property was marketed only in California, and that the real estate agents were licensed only in California. Moreover, the real estate agents never came to Nevada to show the property. All negotiations related to the sale took place in California, the purchase agreement was

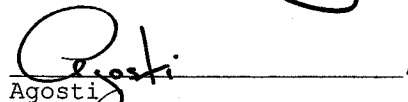
executed in California and escrow opened and closed in California. According to petitioners, their only link to Nevada is that the property itself is located in Nevada. Petitioners claim that the location of the property is not enough to subject them to the jurisdiction of Nevada courts. We disagree.

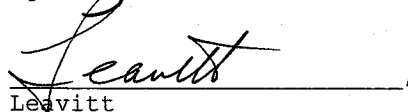
We conclude that petitioners did purposefully avail themselves of the protections and benefits of the laws of Nevada. Storz and Florence were paid a real estate commission arising out of the sale of Nevada real property. The Lasas and OTESA/MHP owned real property in Nevada. Incident to the right of ownership is the right to sell the property.

When the Lasas and OTESA/MHP sold the mobile home park, the laws of Nevada governed the real estate transaction. Presumably, a deed was executed and recorded in accordance with Chapter 111 of the Nevada Revised Statutes. Moreover, any required disclosures regarding the condition of the property would have been provided pursuant to Chapter 113 of the Nevada Revised Statutes. Because the underlying cause of action arises from petitioners' purposeful contacts with Nevada, we conclude that sufficient minimum contacts exist to justify the exercise of personal jurisdiction over them.

For these reasons, we conclude that the district court properly concluded that a prima facie showing of personal jurisdiction was made. We therefore deny this petition.

  
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Shearing J.

  
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Agosti J.

  
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Leavitt J.

cc: Hon. Connie J. Steinheimer, District Judge  
Woodburn & Wedge  
Richard G. Hill  
Washoe County Clerk