

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIA FRANCISCA GARCIA,
Petitioner,
vs.
THE FIRST JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CARSON CITY; AND THE
HONORABLE JAMES TODD RUSSELL,
DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 68409

FILED

SEP 10 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK


ORDER DENYING PETITION

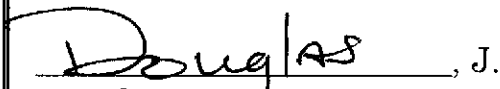
This original petition for a writ of mandamus or certiorari challenges a district court order denying petitioner's appeal from a conviction in justice court of domestic battery involving her brother. Petitioner argues that the district court should have granted her appeal under the doctrine of *de minimus non curat lex* because punching her brother in the back was normal sibling behavior, not a criminal act. She also argues that even if that doctrine did not apply, her appeal should have been granted because the punch she inflicted did not amount to unlawful force or violence, *see* NRS 200.481(1)(a), and was done in self-defense.

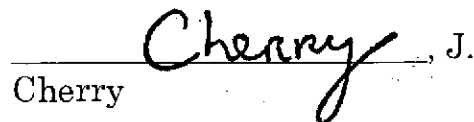
"The Nevada Constitution vests the district courts with final appellate jurisdiction in all cases arising in the justices' courts." *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 227, 88 P.3d 840, 843 (2004); *see* Nev. Const. art. 6, § 6. Given that final appellate jurisdiction, "as a

general rule, we have decline to entertain writs that request review of a decision of the district court acting in its appellate capacity unless the district court has improperly refused to exercise its jurisdiction, has exceeded its jurisdiction, or has exercised its discretion in an arbitrary or capricious manner." *State v. Eighth Judicial Dist. Court (Hedland)*, 116 Nev. 127, 134, 994 P.2d 692, 696 (2000). Here, the district court took jurisdiction of petitioner's appeal and denied relief on the grounds that sufficient evidence supported the conviction and the de minimus doctrine did not apply. Because the district court exercised and did not exceed its jurisdiction and did not act in an arbitrary or capricious manner, its decision is not reviewable by way of a petition for a writ of mandamus. We therefore

ORDER the petition DENIED.


Parraguirre, J.


Douglas, J.


Cherry, J.

cc: Hon. James Todd Russell, District Judge
State Public Defender/Carson City
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk