

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEFFREY CHARLES,
Appellant,
vs.
OMNI-TERRA SOLUTIONS, LLC; AND
DAVID GREEN,
Respondents.

No. 68440

FILED

FEB 28 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a denial of a petition for writ of mandamus or, alternatively, prohibition. Eighth Judicial District Court, Clark County; Nancy L. Allf, Judge.

Jeffrey Charles filed two substantively identical cases in justice court, alleging Omni Terra Solutions ("Omni") breached a contract.¹ After both cases were dismissed, Charles filed his first petition for writ of mandamus. The district court granted the petition and directed department 3 of justice court, where Charles filed his first case, to make further findings. Department 3 clarified that it dismissed the case without prejudice and the parties continued litigation in department 1 of justice court, where Charles had filed his second case. Department 1 then entered a judgment in favor of Charles, but after Omni filed a motion for reconsideration, department 1 deferred resolution of the matter while awaiting further findings from department 3. While the case was pending in department 3, Charles obtained a writ of execution in department 1. Department 3 issued findings of fact and conclusions of law striking the

¹We do not recount the facts except as necessary to our disposition.

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writ of execution and finding the contract at issue to be void. Charles filed a second petition for writ of mandamus or prohibition in the same district court case as his original petition. The district court denied the petition, finding that it lacked jurisdiction.

The sole issue on appeal is whether the district court erred by denying Charles' second petition on the grounds that it lacked jurisdiction. We review the denial of a writ petition for an abuse of discretion. *Reno Newspapers, Inc. v. Haley*, 126 Nev. 211, 214, 234 P.3d 922, 924 (2010).

While district courts generally have the jurisdiction to issue writs of mandamus or prohibition (*see* NRS 34.160; NRS 34.330), this case does not deal with the typical procedure for issuing writs. This was Charles' second petition for writ of mandamus or prohibition before the district court. A district court judge does not automatically obtain jurisdiction over every petition for a writ arising from a single justice court case. Each petition for a writ is an original proceeding, and each decision granting writ relief constitutes a final decision in that case and, thus, the case cannot be reopened "except in conformity with the Nevada Rules of Civil Procedure." *Greene v. Eighth Judicial Dist. Court*, 115 Nev. 391, 395, 990 P.2d 184, 186 (1999); *see also* *Lund v. Eighth Judicial Dist. Court*, 127 Nev. 358, 359–60, 255 P.3d 280, 282 (2011). Therefore, each new petition is assigned to a district court judge on a random basis. But, a district court judge does have jurisdiction under NRS 34.290 over "subsequent enforcement issues" involving a writ that a judge issued. *Barrows v. Seventh Judicial Dist. Court*, 112 Nev. 339, 343, 913 P.2d 1296, 1298 (1996) *disapproved of on other ground by* *Glover v. Concerned Citizens for Fuji Park & Fairgrounds*, 118 Nev. 488, 50 P.3d 546 (2002).

The only way the district court judge in this case would have jurisdiction over Charles' subsequent petition is if that petition were construed as a motion to enforce the prior writ. Charles asserts we should take this approach on appeal because the second petition requests an order compelling both justice courts to comply with the district court's prior order. However, a motion relating to enforcement would not be independently appealable to this court, and consequently we cannot simply convert it on appeal into such a motion. Furthermore, Charles' second petition was not presented to the district court as a continuation of the first writ. Rather, Charles submitted his second petition "pursuant to NRS 34.[]330," which merely states a writ of prohibition cannot issue if there is an adequate remedy at law, and Charles' arguments in his petition mainly focus on department 3's ability to make findings and issue orders in a closed case and a case in a different department. In addition, Charles' second petition never cites NRS 34.290, nor does Charles ask for a contempt order against department 3's judge, which is the statutory penalty for noncompliance with a writ. Finally, Charles did not seek to have the prior final writ order set aside before having the district court grant additional relief, as is required under *Greene*.

Therefore, the district court did not err in concluding that it did not have jurisdiction to entertain Charles' second writ petition as presented, and therefore, did not abuse its discretion by denying the petition. In light of our disposition, we need not address Charles' appellate arguments regarding whether department 3's findings of fact and conclusions of law were proper and whether an appeal would have been appropriate. It is sufficient to conclude Charles improperly filed his

second petition in the same district court case that issued the initial writ.
Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Silver, C.J.
Silver

Tao, J.
Tao

Gibbons, J.
Gibbons

cc: Hon. Nancy L. Allf, District Judge
Garman Turner Gordon
Chattah Law Group
Eighth District Court Clerk