

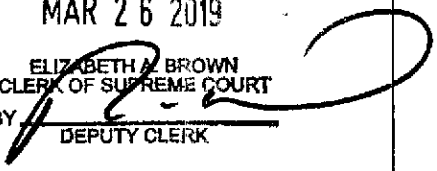
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VANESSA PASTRANA,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
RICHARD SCOTTI, DISTRICT JUDGE,
Respondents,
and
CITY OF HENDERSON,
Real Party in Interest.

No. 78153-COA

FILED

MAR 26 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of prohibition challenges a district court order denying a motion to dismiss the City of Henderson's appeal. Vanessa Pastrana asserts the district court lacks jurisdiction over the appeal.


Pastrana filed a motion to suppress evidence in the municipal court, in which she alleged all evidence obtained as a result of the warrant should be suppressed because the search warrant did not comply with NRS 179.045(7), which requires the warrant to state the time for serving the warrant. The municipal court agreed the search warrant did not comply with NRS 179.045(7) and found "the evidence would have to be suppressed that was gathered under this search warrant." The City appealed. Pastrana moved to dismiss the appeal on the basis the district court lacked jurisdiction, arguing the municipal court's determination was an


evidentiary ruling based on statutory non-compliance, not a ruling based on constitutional grounds.

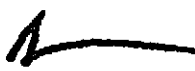
In the instant petition, Pastrana asserts that the substance of her motion, rather than the motion's title, should govern whether the municipal court's decision is appealable. We agree. *See State v. Shade*, 110 Nev. 57, 61 n.1, 867 P2d 393, 395 n.1 (1994). However, contrary to Pastrana's assertions, Pastrana did not simply seek to exclude evidence for evidentiary reasons. Instead, she sought to suppress the evidence on the basis that the failure to include the time for service in the warrant rendered the warrant void and, as a result, all evidence obtained pursuant to the warrant was illegally obtained.

Given the substance of Pastrana's motion, the municipal court order grants a motion to suppress. *See id.*, at 63, 867 P2d at 396 ("Motion to suppress' is a term of art which is defined as a request for the exclusion of evidence premised upon an allegation the evidence was illegally obtained."). Therefore, the order is appealable. *See* NRS 5.073(1); NRS 189.120(1). Accordingly, we conclude Pastrana has failed to demonstrate the district court lacks jurisdiction to proceed with the appeal, *see* NRS 34.320; *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) ("Petitioner[] carr[ies] the burden of demonstrating that extraordinary relief is warranted."), and we

ORDER the petition DENIED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Richard Scotti, District Judge
Law Offices of John G. Watkins
The Pariente Law Firm, P.C.
Attorney General/Carson City
Henderson City Attorney
Eighth District Court Clerk