

IN THE SUPREME COURT OF THE STATE OF NEVADA

DIVISION OF INDUSTRIAL
RELATIONS, WORKERS'
COMPENSATION DIVISION,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
GLORIA STURMAN, DISTRICT
JUDGE,

Respondents,

and

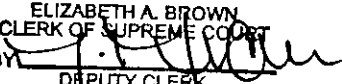
HERBERT JONES,

Real Party in Interest.

No. 89284

FILED

APR 30 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of mandamus or prohibition challenges a district court order denying a motion to dismiss and granting a petition for a writ of mandamus.

Real party in interest Herbert Jones submitted a complaint to petitioner Division of Industrial Relations, Workers' Compensation Division (DIR), claiming that the Employer's Insurance Company of Nevada failed to timely pay for his medical bills on 123 occasions. DIR went through only some of the 123 incidents and determined there were no violations warranting an administrative fine or benefit penalty. Rather than filing a notice of appeal with an administrative appeals officer, Jones filed a petition for judicial review in district court, which he later amended to a petition for a writ of mandamus, requesting that the district court compel DIR to address each of the 123 incidents individually. The district court granted

the mandamus petition and issued a writ directing DIR to review and issue findings related to each of the 123 incidents. DIR then filed the instant petition for a writ of mandamus or prohibition, arguing the district court acted in excess of its jurisdiction or manifestly abused its discretion in issuing the writ because Jones failed to exhaust his administrative remedies prior to seeking relief through the district court.

Writ relief is an extraordinary remedy, and therefore “it is within the discretion of this court to determine if a petition will be considered.” *Clay v. Eighth Jud. Dist. Ct.*, 129 Nev. 445, 450, 305 P.3d 898, 901 (2013). In deciding whether to entertain a writ petition, the court will consider judicial economy and whether there is an important issue of law requiring clarification. *Id.* at 450, 305 P.3d at 901-02. We exercise our jurisdiction to consider this petition because it presents a question of law requiring clarification—whether a district court may grant mandamus relief where the petitioner failed to exhaust administrative remedies.

“A writ of prohibition is used to restrain a district court from acting in excess of its jurisdiction.” *City of Mesquite v. Eighth Jud. Dist. Ct.*, 135 Nev. 240, 243, 445 P.3d 1244, 1248 (2019); *see also* NRS 34.320. “A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control a manifest abuse of discretion.” *We the People Nev. ex rel. Angle v. Miller*, 124 Nev. 874, 879, 192 P.3d 1166, 1170 (2008); *see also* NRS 34.160.

DIR primarily argues that the district court had no jurisdiction to issue mandamus relief because Jones failed to exhaust his administrative remedies prior to seeking relief from the district court. Appeal rights related to administrative complaints are codified in NRS 616D.140 and NRS 616D.145. Specifically, these statutes provide that a party aggrieved by a decision of an administrator must file a notice of appeal with an appeals

officer prior to seeking review from a district court. Failure to do so renders the administrator's decision "a final order [] not subject to review by any court or agency." NRS 616D.140(3). DIR argues that because Jones failed to file a notice of appeal, the DIR's determination became a final order not subject to the district court's jurisdiction. This court has held a district court cannot consider a petition for judicial review that is amended after NRS 233B.130(2)(d)'s filing deadline if the original petition failed to invoke the district court's jurisdiction. *See Washoe Cnty. v. Otto*, 128 Nev. 424, 435, 282 P.3d 719, 727 (2012). Because Jones's initial petition failed to invoke the district court's jurisdiction, DIR argues the district court should have dismissed Jones's petition for judicial review and denied his request to amend his petition to seek mandamus relief.

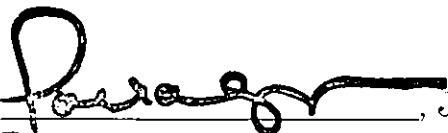
Though we agree with DIR that Jones's petition for judicial review failed to invoke the district court's jurisdiction, we note that *Otto* concerned a party's attempt to amend a jurisdictionally deficient petition for judicial review to provide proper grounds for jurisdiction over the same petition. *See id.* at 430, 282 P.3d at 724. Here, the district court granted leave to file a procedurally different type of petition—mandamus—that is not subject to NRS 233B.130(2)(d)'s filing deadline, and NRCP 15(a)(2) provides that a district court should "freely give leave [to amend a filing] when justice so requires."


Moreover, Jones's requested relief did not ask the district court to review and overrule DIR's determinations on the merits. Instead, Jones simply believed DIR had failed to conduct an adequate investigation into each of his 123 complaints and asked the district court to compel DIR to conduct investigations and issue findings related to each incident so there would be an adequate record for him to administratively appeal. *See* NRS 34.160 (stating a writ may issue to compel the performance of a duty

required by law). Because Jones did not ask the district court to review DIR's determination on the merits, his request fell outside of the scope of NRS 616D.140's and 616D.145's administrative appeals requirements. Therefore, the district court had jurisdiction to consider the petition for a writ of mandamus and issue relief. Consequently, we conclude a writ of prohibition is not warranted.

DIR, in the alternative, argues that the district court manifestly abused its discretion in granting mandamus relief because Jones had a plain, speedy, and adequate alternate remedy: filing a notice of appeal with an appeals officer. *See Clay*, 129 Nev. at 449, 305 P.3d at 901 ("[A] writ will not issue, however, if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of the law."). We conclude that the district court did not manifestly abuse its discretion in determining that an administrative appeal in this instance would have been an inadequate remedy because Jones had previously attempted to appeal DIR's determination related to the 123 incidents, but the appeals officer claimed lack of jurisdiction over the 123 incidents that were not adequately addressed by the DIR investigator. As the district court did not manifestly abuse its discretion in granting Jones's requested relief, mandamus relief is unwarranted. Accordingly, we

ORDER the petition DENIED.


_____, J.
Parraguirre


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Gloria Sturman, District Judge
State of Nevada Department of Business and Industry/Div of
Industrial Relations/Las Vegas
State of Nevada Department of Business and Industry/Div of
Industrial Relations/Carson City
Herbert Jones
Eighth District Court Clerk