

IN THE SUPREME COURT OF THE STATE OF NEVADA

MONARCH CASINO & RESORT, INC.,
A DOMESTIC CORPORATION D/B/A
ATLANTIS CASINO RESORT SPA,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
KATHLEEN A. SIGURDSON,
DISTRICT COURT JUDGE,

Respondents,

and

NATALIA CAMPBELL, AN
INDIVIDUAL; AND MARIA DE DRADA,
AN INDIVIDUAL,
Real Parties in Interest.

No. 89535

FILED

AUG 21 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER GRANTING PETITION

This is an original petition for a writ of mandamus challenging a district court order denying a motion to dismiss.

Facts and Procedural History

Real Parties in Interest Natalia Campbell and Maria De Drada (collectively "Campbell") were allegedly injured on January 2, 2019, at the Monarch Casino & Resort, d/b/a the Atlantis Casino Resort Spa ("Monarch"). NRS 11.190(4)(e) provides a two-year statute of limitations for personal injury cases. Campbell immediately retained counsel, but did not sue Monarch for more than three years.

In March 2020, in response to the COVID-19 pandemic, the Governor declared a state of emergency and on April 1, 2020, issued Emergency Directive 009, section (2) which stated that “[a]ny specific time limit set by state statute . . . for the commencement of any legal action is hereby tolled” until 30 days after the state of emergency was terminated. But on June 29, 2020, the Governor issued Directive 026, which provided in relevant part that Directive 009 “shall terminate on June 30, 2020 at 11:59 pm. All time tolled by Section 2 shall recommence effective July 31, 2020 at 11:59 pm.” At issue here, on July 31, 2020, the Governor issued Directive 029, section 4 of which states:

All directives promulgated pursuant to the March 12, 2020 Declaration of Emergency or subsections thereof set to expire on July 31, 2020, shall remain in effect for the duration of the current state of emergency, unless terminated prior to that date by a subsequent directive or by operation of law associated with lifting the Declaration of Emergency.

Directive 029(5) further provides: “The provisions of Section 4 do not extend to the recommencement of certain actions or directives, including Directive 025, previously terminated by express or implied order, or previously allowed to expire by operation of law.”

Campbell sued Monarch on May 2, 2022, alleging NRS 11.190(4)(e)’s statute of limitations had been tolled through the COVID-19 pandemic. Monarch moved to dismiss on grounds that the emergency directives tolled the statutes only through July 31, 2020, and Campbell’s complaint was therefore untimely. The district court denied Monarch’s motion to dismiss after finding that Directive 029 reinstated Directive 009’s tolling provision and that equitable tolling applied. Monarch now seeks a writ of mandamus directing the district court to vacate its order denying

Monarch's motion to dismiss and to enter an order dismissing the case with prejudice.

Discussion

"A writ of mandamus is available to compel the performance of an act that the law requires . . . or to control an arbitrary or capricious exercise of discretion." *Int'l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008); NRS 34.160. The decision to entertain a petition for a writ of mandamus is within our sole discretion. *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Traditional mandamus is unavailable unless the petitioner is legally entitled to the relief, the respondent manifestly abused its discretion in acting or refusing to act, and there is no other plain, speedy, and adequate remedy. *Walker v. Second Jud. Dist. Ct.*, 136 Nev. 678, 680-81, 476 P.3d 1194, 1196-97 (2020); NRS 34.170. The petitioner carries the burden to show a clear legal right to the requested course of action. *See Walker*, 136 Nev. at 680, 476 P.3d at 1196.

Though writ petitions challenging the denial of a motion to dismiss are highly disfavored, *Heights of Summerlin, LLC v. Eighth Jud. Dist. Ct.*, 140 Nev., Adv. Op. 65, 556 P.3d 959, 962 (2024), an exception exists where there is no factual dispute and a statute or rule clearly obligates the district court to dismiss the action, *Int'l Game Tech., Inc.*, 124 Nev. at 197, 179 P.3d at 558-59. Statute of limitations questions may fall under this exception. *Cf. Dignity Health v. Eighth Jud. Dist. Ct.*, 140 Nev., Adv. Op. 40, 550 P.3d 341, 342 (2024) (addressing Directive 009's tolling duration); *Igtiben v. Eighth Jud. Dist. Ct.*, 140 Nev., Adv. Op. 9, 545 P.3d 116, 119 (Ct. App. 2024) (granting a writ petition and ordering the district

court to dismiss a complaint as untimely where it was filed outside the statute of limitations).

Campbell filed the complaint three years and four months after the incident, well outside NRS 11.190(4)(e)'s two-year limitations period. Unless the limitations period was tolled for at least one year and four months, the district court must dismiss the complaint. We therefore elect to consider Monarch's writ petition.

Statutory interpretation principles apply to executive directives, *Dignity Health*, 140 Nev., Adv. Op. 40, 550 P.3d at 343, so our review is de novo, *I. Cox Constr. Co., LLC v. CH2 Invs., LLC*, 129 Nev. 139, 142, 296 P.3d 1202, 1203 (2013). Statutes are interpreted in view of the entire statutory scheme, and the statute's language, if clear, will control. *State, Priv. Investigator's Licensing Bd. v. Tatalovich*, 129 Nev. 588, 590, 309 P.3d 43, 44 (2013); *Sonia F. v. Eighth Jud. Dist. Ct.*, 125 Nev. 495, 499, 215 P.3d 705, 707 (2009).

By their plain language, Directive 009 tolled the statutes of limitation and Directive 026 ended that tolling. See *Dignity Health*, 140 Nev., Adv. Op. 40, 550 P.3d at 343-44. The question is whether Directive 029 reextended Directive 009's tolling, despite Directive 026. Directive 029(4) plainly states that all COVID-19 emergency directives that were set to expire on July 31, 2020, will remain in effect. Section (4)'s "unless terminated prior to that date" language further provides that any directive extended by Directive 029(4) will remain in effect until the end of the state of emergency unless terminated following Directive 029. But section (5) clearly exempts directives that were *previously* terminated from Directive 029's extension. Although Directive 026 set Directive 009's tolling to end on July 31, Directive 026 also plainly set Directive 009 to "terminate" on

June 30, 2020—a month before Directive 029 issued. Because Directive 029(5) states that Directive 029(4) does not restart terminated directives, Directive 009, which Directive 026 had previously terminated, was not restarted by Directive 029.

NRS 11.190(4)(e)'s two-year statute of limitations therefore began to run again on August 1, 2020, leaving Campbell with less than a year to file her complaint. Campbell's May 2022 complaint fell outside the limitations period and the complaint is therefore time-barred unless equitable tolling applies, which the district court concluded it does. Equitable remedies are reviewed for an abuse of discretion. *See Am. Sterling Bank v. Johnny Mgmt. LV, Inc.*, 126 Nev. 423, 428, 245 P.3d 535, 538 (2010). To warrant equitable tolling, a plaintiff must show that "extraordinary circumstances beyond their control prevented them from timely filing their claims." *Fausto v. Sanchez-Flores*, 137 Nev. 113, 117, 482 P.3d 677, 681-82 (2021). Campbell fails this test under the record facts. The district court found that Campbell was not diligent in filing the complaint because Campbell could have filed before the pandemic, could have used the court's e-filing system during the pandemic, and could have called the court to see if the e-filing system was operational during the early days of the pandemic. Campbell does not show why her mistaken belief that Directive 029 extended the tolling period was an extraordinary circumstance that prevented her from timely filing her complaint. The district court's decision to nevertheless apply equitable tolling has no basis in law, lacks record support, and was a manifest abuse of discretion.

In view of the foregoing we need not reach the other arguments raised in this petition, and we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate its order denying Monarch's motion to dismiss and to enter an order dismissing the case with prejudice.

Pickering, J.
Pickering

Cadish, J.
Cadish

Lee, J.
Lee

cc: Hon. Kathleen A. Sigurdson, District Judge
Lemons, Grundy & Eisenberg
Laxalt Law Group, Ltd./Reno
Ladah Law Firm
James McKiernan Lawyers
Fennemore Craig, P.C./Las Vegas
Fennemore Craig P.C./Reno
Washoe District Court Clerk