

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLORIA PATTERSON, AS SPECIAL
ADMINISTRATRIX OF THE ESTATE
OF ANDREW IMPERATI, SR.,
Appellant,
vs.
HONORABLE DOUGLAS E. SMITH,
JUSTICE OF THE PEACE,
DEPARTMENT 2 OF THE LAS VEGAS
TOWNSHIP JUSTICE COURT; AND
JOSE D. VAZQUEZ, AS GUARDIAN AD
LITEM OF JOSE VAZQUEZ, JR.,
Respondents.

No. 38516

FILED

APR 28 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Ruben*
CHIEF DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This appeal arises from a district court order denying Andrew Imperati, Sr.'s petition for writ of mandamus or, in the alternative, prohibition. The district court declined to issue a writ compelling the justice's court to provide a jury trial at Imperati's request on a personal injury claim by respondent Jose D. Vazquez, as guardian ad litem of Jose Vazquez, Jr., against Imperati.


On appeal, Gloria Patterson, as special administratrix of the estate of Imperati, argues that the district court erred in refusing to grant Imperati's petition since the justice's court's policy of denying jury trials to litigants unless \$5,000 or more in damages is at stake violates the Nevada constitutional guaranty of trial by jury.¹

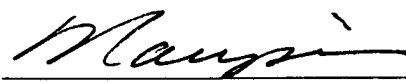
¹Patterson also argues that this policy violates the Seventh Amendment to the United States Constitution; however, we decline to address this issue since we resolve this matter on the basis of Nevada's constitutional guarantee of trial by jury.

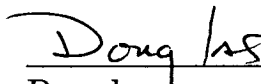
We recently addressed the exact same issue in the case of Aftercare of Clark County v. Justice Court.² In Aftercare, we considered whether justices of the peace may deny jury trials to litigants who have filed a civil action in justice's court and who seek less than \$5,000 in damages.³ We concluded that the justice's court's policy of denying jury trials to litigants unless \$5,000 or more is at stake violated the Nevada constitutional guaranty of trial by jury.⁴

Based on our decision in Aftercare, we conclude that the district court abused its discretion in denying Imperati writ relief from the justice's court policy requiring bench trials in civil actions under \$5,000. Accordingly, we reverse the district court order denying Imperati's petition for writ relief, and we remand this case to the district court for the issuance of writ of mandamus, compelling a justice's court jury trial in this matter.

IT IS SO ORDERED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

²120 Nev. ___, 82 P.3d 931 (2004).

³Id. at ___, 82 P.3d at 932.

⁴Id. at ___, 82 P.3d at 936.

cc: Hon. Kathy A. Hardcastle, District Judge
Ronald M. Pehr
Clark County District Attorney
Law Offices of Michael F. Bohn, Ltd.
Clark County Clerk