



IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER DYER,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JENNIFER L. SCHWARTZ, DISTRICT
JUDGE,
Respondents,
and
GINA DYER,
Real Party in Interest.

No. 92230

ORDER GRANTING PETITION FOR A WRIT OF MANDAMUS

This writ petition challenges a district court order dismissing an appeal of a justice court summary eviction order.

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. NRS 34.160; *Int'l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). We generally do not entertain writ petitions seeking review of a district court decision in its appellate capacity. *Southworth v. Eighth Jud. Dist. Ct.*, 134 Nev. 149, 151, 414 P.3d 311, 313 (2018). But we may do so when the district court has exceeded its jurisdiction or exercised its discretion arbitrarily or capriciously. *Id.* An exercise of discretion is arbitrary or capricious when the district court acted “contrary to the evidence or established rules of law.” *State v. Eighth Jud. Dist. Ct. (Armstrong)*, 127 Nev. 927, 931-32, 267 P.3d 777, 780 (2011) (citation modified). Because petitioner Christopher Dyer alleges that the district court

acted contrary to established law in dismissing his appeal, we elect to entertain this writ petition.

On the merits of the petition, the district court clearly erred by dismissing Christopher's appeal on the ground that Christopher's notice of appeal did not identify any error of law. Christopher's appeal raised a jurisdictional challenge to the justice court's authority to enter the summary eviction order.

Summary eviction under NRS Chapter 40 requires a landlord-tenant relationship. *See, e.g., Glazier v. Justice Ct. of Smith Valley Twp.*, 111 Nev. 864, 866, 899 P.2d 1105, 1106 (1995) (holding that the justice court exceeded its jurisdiction by granting summary eviction under NRS 40.253 where the statutory requirements were not met); *Waugh v. Casazza*, 85 Nev. 520, 521, 458 P.2d 359, 360 (1969) (recognizing that an unlawful detainer action was properly brought in justice court where a landlord-tenant relationship existed). Here, although it is undisputed that the residence is community property, real party in interest Gina Dyer sought summary eviction on the asserted ground that Christopher had signed a written rental agreement and therefore occupied the residence as a tenant at will. Gina purportedly attached the rental agreement to the summary eviction application, but the agreement is not included in the record before us. Nor does the record establish when the purported agreement was executed. Thus, the record does not contain sufficient evidence to establish the parties' possessory rights arose from a landlord-tenant relationship rather than from their respective interests in the marital property.

NRS 3.223(1)(a) also grants the family court division of the district court original, exclusive jurisdiction over the disposition of community property under NRS Chapter 125, including the disposition of the residence.

See Landreth v. Malik, 127 Nev. 175, 184, 251 P.3d 163, 169 (2011) (recognizing that NRS 3.223 vests the family court with original and exclusive jurisdiction over matters affecting the familial unit, including divorce and community property); *Gojack v. Second Jud. Dist. Ct.*, 95 Nev. 443, 445, 596 P.2d 237, 239 (1979) (recognizing the district court's obligation to dispose of community property in a divorce action). Before Gina initiated the summary eviction proceeding in justice court, the family court had already exercised jurisdiction over the parties and their respective rights to the marital residence. That court also had authority to enforce its property-related orders through its contempt power. *See Guerin v. Guerin*, 114 Nev. 127, 134, 953 P.2d 716, 721 (1998) (holding that district court did not abuse its discretion in holding spouse in contempt based on their failure to comply with property order), *abrogated on other grounds by Pengilly v. Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 5 P.3d 569 (2000).

Accordingly, any dispute concerning Christopher's continued possession of the marital residence was properly addressed in the pending divorce action, not through a summary landlord-tenant proceeding in justice court. Because no landlord-tenant relationship existed and the family court had already exercised jurisdiction over the parties' rights to the residence, the justice court exceeded its jurisdiction by granting summary eviction. Therefore, the district court acted contrary to established law by dismissing Christopher's appeal without recognizing the justice court's jurisdictional error. Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to grant Christopher's appeal and direct the justice court to vacate its

December 9, 2025, summary eviction in Case No. 25E037649, and dismiss the complaint in Case No. 25E037649.¹



Bell, J.



Stiglich, J.



Cadish, J.

cc: Kelleher & Kelleher, LLC
McGannon Law Office, P.C.
Hon. Jennifer L. Schwartz, District Judge
Eighth Judicial District Court Clerk

¹We lift our stay of the justice court's December 9, 2025, summary eviction in Case No. 25E037649.