

IN THE SUPREME COURT OF THE STATE OF NEVADA

TEXAS STATION, INC., A NEVADA
CORPORATION, D/B/A TEXAS
STATION GAMBLING HALL & HOTEL,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
MARK R. DENTON, DISTRICT JUDGE,

Respondents,

and

DAVID GILES,

Real Party in Interest.

No. 38672

FILED

NOV 30 2001

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying petitioner's motion for summary judgment and refusing to dismiss a negligence complaint against it. Petitioner contends that it is immune from civil liability under NRS 41.1305(1), which provides: "No person who serves or sells alcoholic beverages is liable in a civil action based on the grounds that the service or sale was the proximate cause of injuries inflicted by an intoxicated person upon himself or another person," and Nevada case law confirming that alcohol vendors are not liable for injuries resulting from the sale or service of alcohol. Petitioner also requests an immediate stay of the underlying case, which is set for trial in January 2002.

We generally decline to consider writ petitions that challenge orders denying motions to dismiss or for summary judgment, although we occasionally deviate from this policy to promote sound judicial economy

01-20032

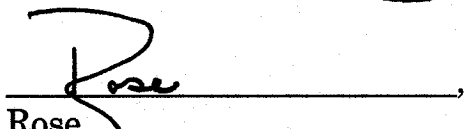
and administration, such as when no factual disputes exist and the district court is obligated to dismiss an action pursuant to clear authority.¹

Here, petitioner has not established any persuasive reason for this court to intervene at this stage of the litigation. The real party in interest's complaint did not allege that his injuries arose from petitioner's sale or service of alcohol, but rather from the negligence of its security officers who evicted him from the casino and escorted him to his car, directing or allowing him to drive home, knowing he was drunk, after assuring his companion that they would not allow him to drive and that he would be taken home safely. Since neither NRS 41.1305 nor any of the cases cited by Texas Station clearly obligates the district court to dismiss the action under these circumstances, we conclude that our intervention is not warranted at this time and we deny the petition. Since our decision renders petitioner's motion for a stay moot, we deny the motion as well.

It is so ORDERED.



Shearing J.



Rose J.



Becker J.

cc: Hon. Mark R. Denton, District Judge
Pyatt & Silvestri
Vannah Costello Canepa Riedy & Rubino
Clark County Clerk

¹Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d 280, 281 (1997).

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
THE VERA RICHMOND TRUST R-501,
DATED DECEMBER 20, 1984.

No. 38673

SHRINERS HOSPITAL FOR
CHILDREN; JEWISH HOME FOR THE
AGED,

Appellants,

vs.

BEN RICHMOND, INDIVIDUALLY;
BEN RICHMOND AS TRUSTEE FOR
THE VERA RICHMOND TRUST R-501,
DATED DECEMBER 20, 1984.

Respondent.

FILED

OCT 30 2001

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

ORDER GRANTING TEMPORARY STAY

This is an appeal from a district court order granting respondent's petition to distribute trust assets. Appellants have moved for an emergency stay pending resolution of this appeal.

Good cause having been shown, we temporarily stay enforcement of the district court's Order for Instructions to Distribute Trust Assets pending the filing of a response to appellants' emergency motion for a stay and pending further order of this court. Additionally, resolution of this appeal shall be expedited as this court's calendar permits.

It is so ORDERED.

Maury, C.J.

cc: Hon. Mark W. Gibbons, District Judge
Marquis & Aurbach
Moran & Associates
Clark County Clerk