

IN THE SUPREME COURT OF THE STATE OF NEVADA

7-ELEVEN, INC., F/K/A SOUTHLAND
CORPORATION,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
GENE T. PORTER, DISTRICT JUDGE,
Respondents,

and

KENNETH JACKSON, AS THE
PERSONAL REPRESENTATIVE OF
MARY JACKSON, DECEASED,
Real Party in Interest.

No. 39405

FILED

APR 10 2002

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

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

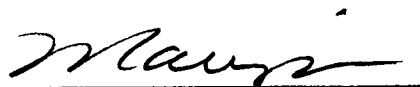
This original petition for a writ of prohibition challenges a district court order allowing the real party in interest, Kenneth Jackson, to amend his complaint in an action previously dismissed. The district court orally granted reconsideration of its prior summary judgment order entered in favor of 7-Eleven, Inc.,¹ and granted leave for Jackson to amend his complaint. The record shows that, by amending the complaint, Jackson only seeks to replace 7-Eleven with two previously unnamed defendants.

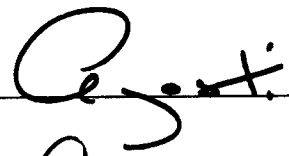
Because the district court effectively reversed the summary judgment entered in 7-Eleven's favor, 7-Eleven appears technically


¹The petition does not include a copy of a written order granting reconsideration.

aggrieved. But implicit in the district court's decision to allow the amendment is the conclusion that the action will not proceed against 7-Eleven.² Thus, it does not appear that 7-Eleven is substantially aggrieved by the district court's order allowing the amendment.³ If 7-Eleven was aggrieved in some other manner, its petition fails to state the ground. Based upon the petition before us, extraordinary relief does not appear warranted, and we

ORDER the petition DENIED.⁴


_____, C.J.
Maupin


_____, J.
Agosti


_____, J.
Leavitt

²Once the amended complaint is filed, it appears that 7-Eleven would be entitled to a formal dismissal as a defendant under NRCP 41(a).

³See NRAP 34.330 (stating that a petition for writ of prohibition may be issued upon the application of a party beneficially interested); see also Abramson v. Byrne, 587 N.Y.S.2d 438 (App. Div. 1992) (denying an application for prohibition when applicant failed to assert a tenable injury or aggrievement to himself).

⁴See NRAP 21(b). Without commenting on the merits, we note that if the newly named defendants wish to challenge the district court's actions, they can file a petition on their own behalf.

cc: Hon. Gene T. Porter, District Judge
Edwards, Hale, Sturman, Atkin & Cushing, Ltd.
Albert D. Massi, Ltd.
Clark County Clerk