

IN THE SUPREME COURT OF THE STATE OF NEVADA

JANA M. CRAIN, M.D.,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
PATRICK FLANAGAN, DISTRICT
JUDGE,
Respondents,
and
MARILY MORA INDIVIDUALLY, AND
AS THE HEIR AND PERSONAL
REPRESENTATIVE OF ROGER MORA,
DECEASED,
Real Parties in Interest.

No. 50356

FILED

MAR 17 2009
TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition for a writ of prohibition challenging district court orders denying a motion to dismiss for lack of personal jurisdiction and denying reconsideration of that order.

Dr. Jana Crain petitions this Court for a writ of prohibition because the district court did not have jurisdiction over her. Crain contends that the real party in interest, Marily Mora (Mora), did not make a prima facie showing that jurisdiction over Crain was proper. Crain also argues that the district court exceeded its authority in exercising personal jurisdiction over her because she did not establish sufficient minimum contacts with the State of Nevada. We conclude that the district court did not exceed its jurisdiction in exercising personal jurisdiction over Crain because Mora made a prima facie showing of jurisdiction and Crain established sufficient minimum contacts with Nevada.

BACKGROUND

In seeking treatment for an ankle injury, Roger Mora underwent an MRI of his leg at Reno Diagnostic Center (RDC). RDC contracted with California Advanced Imaging Medical Associations, Inc. d/b/a National Orthopedic Imaging Associates (NOIA) to analyze its MRI scans. Thereafter, NOIA assigned Crain to analyze Roger's MRI. Crain did not interpret the MRI to diagnose neoplasm, which experts retained by Mora opined may have saved her husband's life. Mora filed a complaint in district court after Roger's death. She attached the affidavits of experts who opined that a correct MRI analysis would have discovered neoplasm, saving Roger's life. Crain sought to dismiss the complaint against her for lack of personal jurisdiction. The district court denied Crain's motion to dismiss, finding specific personal jurisdiction over her in this case. Crain now petitions this court for a writ of prohibition, asking this court to issue a writ because the district court did not have jurisdiction over her person.

STANDARD OF REVIEW

Extraordinary relief is appropriate where a district court exercises unlawful jurisdiction over a defendant. See NRS 34.320. "A writ of prohibition is the counterpart to a writ of mandamus and is available when a district court acts without or in excess of its jurisdiction." International Game Tech. v. Dist. Ct., 122 Nev. 132, 142, 127 P.3d 1088, 1096 (2006). Once a party challenges the exercise of personal jurisdiction, the plaintiff has the burden of making a prima facie showing that jurisdiction is proper. See Davis v. District Court, 97 Nev. 332, 337, 629 P.2d 1209, 1212-13 (1981), superseded on other grounds by rule, NRCP 12(b), as stated in Fritz Hansen A/S v. Dist. Ct., 116 Nev. 650, 6 P.3d 982 (2000) (abrogating the distinction between special and general appearances). Where the facts concerning jurisdiction are not in dispute,

we conduct a de novo review of the district court's determination of jurisdiction. Baker v. Dist. Ct., 116 Nev. 527, 531, 999 P.2d 1020, 1023 (2000).

DISCUSSION

Crain challenges the district court's exercise of personal jurisdiction over her, contending that the district court abused its discretion in finding that there were sufficient minimum contacts to support jurisdiction.

"[S]pecific personal jurisdiction over a defendant may be established only where the cause of action arises from the defendant's contacts with the forum." Trump v. District Court, 109 Nev. 687, 699, 857 P.2d 740, 748 (1993). A three-prong test is used to determine whether specific personal jurisdiction over a non-resident exists. Casentini v. District Court, 110 Nev. 721, 726, 877 P.2d 535, 539 (1994). "It must first be established that the defendant 'purposefully established "minimum contacts" in the forum State[]' by 'conduct and connection with the forum State . . . such that he should reasonably anticipate being haled into court there.'" Id. at 726-27, 877 P.2d at 539 (quoting Burger King Corp. v. Rudzewicz, 471 U.S. 462, 474 (1985)). This requires ""some act by which the defendant purposefully avail[ed] itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws."" Id. at 727, 877 P.2d at 539 (quoting Burger King Corp., 471 U.S. at 475 (quoting Hanson v. Denckla, 357 U.S. 235, 253 (1958))). The second prong requires a showing that "the cause of action arose out of or is connected to the acts purposefully engaged in by the defendant in the forum state." Id. Third, it must be determined that the assertion of personal jurisdiction comports with traditional notions of fair play and substantial justice. Id.

We conclude that Mora has made a prima facie showing that jurisdiction is proper and the district court did not exceed its jurisdiction in so finding because Mora demonstrated that Crain's act of interpreting the results of an MRI, which was conducted in Nevada on a Nevada resident, indicated purposeful establishment of contacts with affirmative conduct directed towards Nevada, and the affirmative conduct—the alleged wrong interpretation of the MRI results—form the underlying basis of Mora's complaint for medical malpractice. Further, on the record presented here, traditional notions of fair play and substantial justice are not offended by an assertion of personal jurisdiction because it was foreseeable that Crain would be haled into a Nevada court, based on such conduct.

We further conclude that the district court did not exceed its jurisdiction in denying Crain's motion for reconsideration.

Accordingly, we

ORDER the petition denied.

Hardesty, C.J.
Hardesty

Parraguirre, J.
Parraguirre

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Douglas, J.
Douglas

Saitta, J.
Saitta

Pickering, J.
Pickering

cc: Hon. Patrick Flanagan, District Judge
Lewis & Roca, LLP/Las Vegas
Mandelbaum & Schwarz, Ltd.
Schuering Zimmerman Scully Tweedy & Doyle LLP
Lemons Grundy & Eisenberg
Steven J. Klearman & Associates
Washoe District Court Clerk