IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS REVIEW-JOURNAL, INC.; NOBLE BRIGHAM; BIZUAYEHU TESFAYE; AND AKIYA DILLON,
Petitioners,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE JESSICA K. PETERSON, DISTRICT JUDGE,
Respondents,
and
NATHAN CHASING HORSE AND THE STATE OF NEVADA,
Real Parties in Interest.

No. 92008

FILED

JAN 28 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

This emergency original petition for a writ of mandamus or prohibition challenges district court orders restricting petitioners from publishing the identity of an alleged victim in a criminal proceeding and excluding petitioners from the courtroom while the alleged victim testified. Petitioners seek a writ vacating these restrictions and prohibiting the district court from excluding them from the trial. As this matter warrants our expedited consideration and decision, given the ongoing trial proceedings, this order is being entered for the purpose of providing the parties immediate resolution of the primary issues raised. But because this

26-04231

issue has statewide implications, an opinion further elucidating our decision in this matter will be forthcoming.

This court has original jurisdiction to issue writs of mandamus and prohibition, and the decision to entertain a petition for such relief is solely within this court's discretion. *See* Nev. Const. art. 6, § 4; *D.R. Horton, Inc. v. Eighth Jud. Dist. Ct.*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). Mandamus is available to control a manifest abuse of discretion or an arbitrary or capricious exercise of discretion. *D.R. Horton*, 123 Nev. at 475, 168 P.3d at 737. A writ of prohibition is utilized to arrest district court proceedings that exceed the district court's jurisdiction. *Johanson v. Eighth Jud. Dist. Ct.*, 124 Nev. 245, 248, 182 P.3d 94, 96 (2008). Petitioners bear the burden to show that extraordinary relief is warranted, and such relief is proper only when there is no plain, speedy, and adequate remedy at law. *See Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004).

We exercise our discretion to entertain this petition because the district court's orders are not independently appealable and, absent our intervention, irreparable injury would otherwise result. *See Las Vegas Review-Journal v. Eighth Jud. Dist. Ct.*, 134 Nev. 40, 43, 412 P.3d 23, 26 (2018) ("It is clear that even a short-lived 'gag' order in a case of widespread concern to the community constitutes a substantial prior restraint and causes irreparable injury to First Amendment interests as long as it remains in effect." (quoting *Capital Cities Media, Inc. v. Toole*, 463 U.S. 1303, 1304 (1983))); *see also Johanson*, 124 Nev. at 249, 182 P.3d at 96 (electing to entertain a writ petition challenging a gag order because a later appeal would not be an adequate or speedy remedy).

Petitioners argue that the district court manifestly abused its discretion in several respects, including by issuing an unconstitutional prior restraint and violating its right of access to the court. We agree.

"[P]rior restraints on speech and publication are the most serious and the least tolerable infringement on First Amendment rights," *Neb. Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976), and are presumed to be unconstitutional, *Las Vegas Review-Journal*, 134 Nev. at 43, 412 P.3d at 26. The proponent of a prior restraint bears a heavy burden. *Id.* at 44, 412 P.3d at 26. To show that such a restriction is justified, "the interest the prohibition protects must be of the 'highest order.'" *Id.* (quoting *The Fla. Star v. B.J.F.*, 491 U.S. 524, 541 (1989)). This court has held that a prior restraint or "gag" order is justified only when "(1) the activity restrained poses either a clear and present danger or a serious and imminent threat to a protected competing interest, (2) the order is narrowly drawn, and (3) less restrictive alternatives are not available." *Id.* (quoting *Johanson*, 124 Nev. at 251, 182 P.3d at 98).

Here, the district court based its restrictions on the alleged victim's privacy interests. The victim's name, however, already appeared throughout publicly filed transcripts of the grand jury proceedings. In addition, petitioners point out that the alleged victim's name was already disclosed by the State in open court during the underlying trial. Although we are sympathetic to the alleged victim's privacy concerns, the prior disclosure of her name diminishes any interest in protecting her anonymity. Under these circumstances, the district court's restrictions could not, as a matter of law, serve an interest of the highest order. *See Las Vegas Review-Journal*, 134 Nev. at 45, 412 P.3d at 27; *see also Okla. Publ'g Co. v. Dist. Ct.*, 430 U.S. 308 (1977) (vacating a state court injunction prohibiting the

media from publishing the name and photograph of an 11-year-old boy being tried in juvenile court where the juvenile court judge had permitted reporters and other members of the public to attend a hearing in the case, notwithstanding a statute closing such trials to the public); *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 494-95 (1975) ("the interests in privacy fade when the information involved already appears on the public record"); *Doe v. City of N.Y.*, 15 F.3d 264, 268 (2d Cir. 1994) ("Certainly, there is no question that an individual cannot expect to have a constitutionally protected privacy interest in matters of public record."); *McNally v. Pulitzer Publ'g Co.*, 532 F.2d 69, 77-78 (8th Cir. 1976) (holding that there was no harm to any constitutional right of privacy when the information claimed to be private was already a matter of public record).

In addition, although other individuals were present when the alleged victim's name was disclosed and when she testified, it does not appear the district court imposed the same restrictions on each of those individuals. Thus, the district court's measures did not advance its stated goal of protecting the alleged victim's privacy. *See Las Vegas Review-Journal*, 134 Nev. at 45-46, 412 P.3d at 27-28 ("When a State attempts the extraordinary measure of punishing truthful publication in the name of privacy, it must demonstrate its commitment to advancing this interest by applying its prohibition evenhandedly, to the smalltime disseminator as well as the media giant." (quoting *The Fla. Star*, 491 U.S. at 540)). We therefore conclude that the district court manifestly abused its discretion by imposing an unjustified prior restraint.

The district court's exclusion of petitioners from the courtroom likewise does not withstand scrutiny. "[T]he right to attend criminal trials is implicit in the guarantees of the First Amendment; without the freedom

to attend such trials, which people have exercised for centuries, important aspects of freedom of speech and 'of the press could be eviscerated.'" *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 580 (1980) (quoting *Branzburg v. Hayes*, 408 U.S. 665, 681 (1972)). This court fiercely guards the longstanding presumption that the press has an integral right to access criminal trials. *See, e.g., Stephens Media, LLC v. Eighth Jud. Dist. Ct.*, 125 Nev. 849, 859, 221 P.3d 1240, 1247 (2009). Although not absolute, the presumption of openness "may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest." *Id.* (quoting *Press-Enterprise Co. v. Superior Ct. of Cal.*, 464 U.S. 501, 510 (1984)).

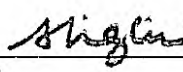
Here, the district court ejected petitioners from the courtroom due to their refusal to agree not to publish the alleged victim's name. As detailed, this restriction constitutes an unjustified prior restraint. There is not an overriding interest in enforcing such an order. Further, given the prior disclosure of the alleged victim's identity, the district court's exclusion of petitioners was not narrowly tailored to serving any interest in protecting her anonymity. Instead, the exclusion served only to violate petitioners' right of access and punish them for not submitting to an unconstitutional restraint. As the district court manifestly abused its discretion in so ruling, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate its January 13, 2026, "amended decorum order" insofar as it restricts petitioners from publishing the identity of the alleged victim and publicly available information and direct the district court not

to exclude petitioners from the trial on the basis of their refusal to submit to the restrictions in the decorum order.[1]

_____, C.J.
Herndon

_____, J.
Cadish



_____, J.
Stiglich

cc: Hon. Jessica K. Peterson, District Judge
McLetchie Law
Clark County District Attorney
Mueller & Associates
Randazza Legal Group, PLLC
Eighth District Court Clerk

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[1]In light of this order, petitioners' alternative request for a writ of prohibition is denied.