

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADANS FOR SOUND  
GOVERNMENT, BY AND THROUGH  
ITS CHAIRMAN, GEORGE HARRIS,  
Petitioners,

vs.

THE STATE OF NEVADA ON  
RELATION OF THE DEPARTMENT OF  
MOTOR VEHICLES; THE UNIVERSITY  
OF NEVADA LAS VEGAS; THE  
REGIONAL TRANSIT AUTHORITY;  
NEVADA SECRETARY OF STATE,  
DEAN HELLER,  
Respondents.

No. 43293

FILED

MAY 17 2004

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for writ of mandamus filed by Nevadans for Sound Government, and its chairman, George Harris, seeking a 60-day extension of the May 18, 2004 deadline by which petitioners must submit their "Axe the Tax" referendum petition and the June 15, 2004 deadline by which petitioners must submit their constitutional amendment initiative petition. Petitioners also seek a mandate directing certain respondents to "immediately cease" from actions allegedly hindering petitioners from gathering signatures on respondents' premises.

A writ of mandamus may issue to compel the performance of an act that the law requires as a duty resulting from an office, trust or

station, or to control an arbitrary or capricious exercise of discretion.<sup>1</sup> Original petitions for mandamus are addressed to the sound discretion of this court.<sup>2</sup> However, this court will not exercise its discretion, even when important public interests are involved, when factual, rather than legal, issues are presented.<sup>3</sup>

Petitioners assert that certain respondents committed various alleged actions, that these actions violated petitioners' rights, and that petitioners' signature-gathering activities suffered as a result. The determination of whether extraordinary relief may be warranted in this case would therefore require, at least, a demonstration of and investigation into the specific facts and circumstances surrounding each of the alleged incidents and the effects of those incidents on the petitioners' activities. Consequently, this original petition presents significant factual issues, and petitioners inappropriately seek writ relief in this court. As we recognized in Round Hill General Improvement District v. Newman,<sup>4</sup> when factual issues must be determined with respect to a petition for an

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<sup>1</sup>NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

<sup>2</sup>State ex rel. Dep't Transp. v. Thompson, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983); NRAP 21; see also Nev. Const. art. 6, § 4.

<sup>3</sup>Round Hill Gen. Imp. Dist., 97 Nev. at 604, 637 P.2d at 536.

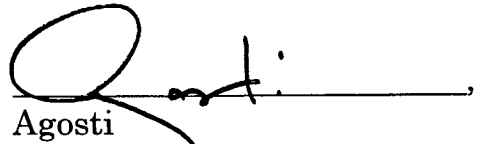
497 Nev. 601, 637 P.2d 534 (1981).

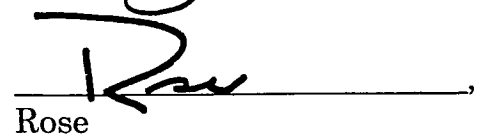
extraordinary writ, the petition should be filed in the district court.<sup>5</sup>

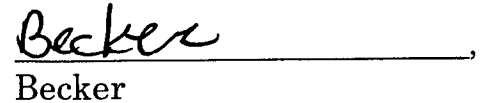
Accordingly, we

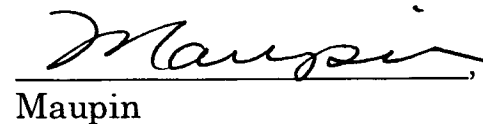
ORDER the petition DENIED.<sup>6</sup>

 \_\_\_\_\_, C.J.  
Shearing

 \_\_\_\_\_, J.  
Agosti

 \_\_\_\_\_, J.  
Rose

 \_\_\_\_\_, J.  
Becker

 \_\_\_\_\_, J.  
Maupin

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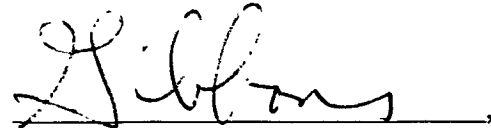
<sup>5</sup>See also Nev. Const. art. 6, § 6 (granting district courts authority to issue writs of mandamus); NRS 34.160.

<sup>6</sup>Petitioners' May 13, 2004 motion for an emergency hearing is denied as moot.

The Honorable Michael L. Douglas, Justice, voluntarily recused himself from participating in this matter.

GIBBONS, J., dissenting:

I dissent. I would order an expedited answer to the petition.

  
Gibbons, J.  
Gibbons

cc: Hansen & Hansen  
Attorney General Brian Sandoval/Carson City