

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANYA S. DUKE,
Petitioner,
vs.
ROGER M. SIMON, M.D.,
Respondent.

No. 43337

FILED

JUL 15 2004

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original proper person petition for a writ of mandamus. A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust or station,¹ or to control an arbitrary or capricious exercise of discretion.² Mandamus will not issue, however, if petitioner has a plain, speedy and adequate remedy at law.³ Further, mandamus is an extraordinary remedy, and whether a petition will be entertained is entirely within the discretion of this court.⁴

¹See NRS 34.160.


²See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

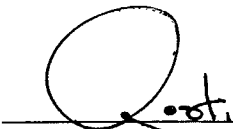
³NRS 34.170.


⁴Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982); see also Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

We have considered this petition, and we are not satisfied that our intervention by way of extraordinary relief is warranted at this time. Accordingly, we deny the petition.⁵

It is so ORDERED.⁶


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Eighth Judicial District Court Dept. 11.
Alverson Taylor Mortensen Nelson & Sanders
Anya S. Duke
Clark County Clerk

⁵See NRAP 21(b); Andolino v. State of Nevada, 99 Nev. 346, 662 P.2d 631 (1983) (stating that the adjudication of an issue in an appeal is the law of that case in subsequent proceedings).

⁶Although petitioner was not granted leave to proceed in proper person, see NRAP 46(b), we have considered the proper person documents received from her. In light of this order, we deny respondent's motion to strike and appellant's motion for an extension of time as moot.

We conclude that the affidavit submitted by petitioner demonstrates good cause to waive the filing fee. See NRAP 21(e).