

IN THE SUPREME COURT OF THE STATE OF NEVADA

L. RICHARD OUSLEY,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
DAVID WALL, DISTRICT JUDGE,  
Respondents,  
and  
YACK CONSTRUCTION, INC.,  
Real Party in Interest.

No. 43845

FILED

DEC 03 2004

JANETTE M. LLOMA  
CLERK OF SUPREME COURT  
BY *J. R. Rade*  
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR  
WRIT OF MANDAMUS

This original proper person petition for a writ of mandamus seeks relief from an order confirming an arbitration award, and asks this court to review a recently filed legal malpractice case currently pending in the district court.

Petitioner L. Richard Ousley apparently filed an action against real party in interest Yack Construction, arising out of a construction dispute. The matter proceeded to binding arbitration and the arbitrator awarded Yack over \$300,000.

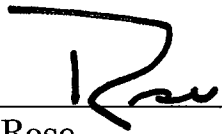
The district court entered an order confirming the arbitration award in December 2002. Several months later, Ousley moved to set aside the judgment under NRCP 60(b). The district court denied NRCP 60(b) relief, and Ousley appealed. We note that Ousley's appeal from the district court order denying NRCP 60(b) relief is currently pending in this court.


Ousley recently filed this writ petition, in which he appears to seek relief from the district court order confirming the arbitration award.

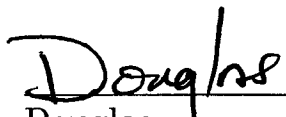
Ousley notes that he has filed another district court action against Yack, and a separate malpractice action against his former attorney. He also appears to seek writ review of the malpractice case, despite the fact that the case was just recently filed in the district court.

Our intervention by way of extraordinary relief is not warranted in this case. First, to the extent Ousley seeks review of the order confirming the arbitration award, writ relief is unavailable to correct an untimely notice of appeal.<sup>1</sup> Second, writ relief is unavailable to review Ousley's legal malpractice claim. At this time, his remedy lies in his legal malpractice case pending in the district court.<sup>2</sup> Accordingly, we deny this petition.<sup>3</sup>

It is so ORDERED.

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

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

  
\_\_\_\_\_, J.  
Douglas

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<sup>1</sup>Pan v. Dist. Ct., 120 Nev. \_\_\_, 88 P.3d 840 (2004); NRS 38.247(1)(c) (authorizing appeal from an order confirming an arbitration award); NRAP 4(a)(1) (stating that a notice of appeal must be filed no later than thirty days after service of written notice of entry of the order appealed from).

<sup>2</sup>NRS 34.170 (stating that mandamus will not issue if the petitioner has a plain, speedy and adequate remedy at law).

<sup>3</sup>See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

cc: Hon. David Wall, District Judge  
Jones Vargas/Las Vegas  
L. Richard Ousley  
Clark County Clerk