

IN THE SUPREME COURT OF THE STATE OF NEVADA

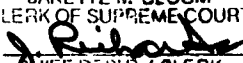
HENRY LEE BIAS,  
Petitioner,  
vs.  
NEVADA DEPARTMENT OF  
CORRECTIONS,  
Respondent.

No. 43997

FILED

NOV 17 2004

ORDER DENYING PETITION FOR  
WRIT OF MANDAMUS

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

This original proper person petition for a writ of mandamus asks this court to compel the Nevada Department of Corrections to render adequate medical treatment to the petitioner.

Petitioner Henry Bias is incarcerated at the High Desert State Prison. Bias claims that he is diabetic and infected with the Hepatitis C virus. According to Bias, he is not receiving adequate medical treatment for his various medical conditions.

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,<sup>1</sup> or to control an arbitrary or capricious exercise of discretion.<sup>2</sup> Mandamus will not issue, however, if petitioner has a plain, speedy and adequate remedy at law.<sup>3</sup> Further, mandamus is an extraordinary

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<sup>1</sup>See NRS 34.160.


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

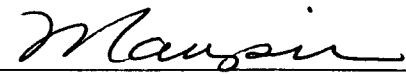
<sup>3</sup>NRS 34.170.

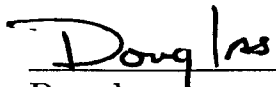
remedy, and whether a petition will be entertained is entirely within the discretion of this court.<sup>4</sup>

We have considered this petition, and we are not satisfied that our intervention by way of extraordinary relief is warranted at this time. This writ petition appears to raise factual issues, which this court is ill-suited to resolve.<sup>5</sup> As we have previously noted, “[w]hen disputed factual issues are critical in demonstrating the propriety of a writ of mandamus, the writ should be sought in the district court, with appeal from an adverse judgment to this court.”<sup>6</sup> Consequently, our intervention at this stage is unwarranted, and we deny the petition.<sup>7</sup>

It is so ORDERED.<sup>8</sup>

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

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

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

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<sup>4</sup>Poulos 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).

<sup>5</sup>Round Hill, 97 Nev. at 604, 637 P.2d at 536.

<sup>6</sup>Id.

<sup>7</sup>NRAP 21(b); Smith, 107 Nev. at 677, 818 P.2d at 851.

<sup>8</sup>We note that petitioner’s failure to pay the filing fee constitutes an additional basis for denying the writ petition.

cc: Attorney General Brian Sandoval/Carson City  
Henry Lee Bias  
Clark County Clerk