

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENYON KAY STAHELI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44470

FILED

MAR 04 2005

ORDER OF AFFIRMANCE

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

This is a proper person appeal from the district court's order denying appellant Kenyon Kay Staheli's petition for a writ of mandamus. Fifth Judicial District Court, Nye County; John P. Davis, Judge.

On December 15, 2004, Staheli filed a "petition for peremptory writ of mandamus" in the district court. Staheli requested the district court to compel the State to comply with NRS 171.178 and NRS 171.196 regarding charges set forth in a criminal complaint filed on January 5, 2004. The district court denied Staheli's petition on December 20, 2004. This appeal followed.

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 A writ of mandamus will not issue, however, if Staheli has a plain, speedy and adequate remedy in the ordinary course of law.³ Based on the record


¹See NRS 34.160


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

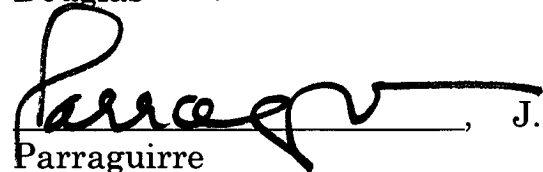
³See NRS 34.170.

before us, we conclude that Staheli has an adequate remedy at law by way of appeal should he be convicted of the charges alleged in the complaint. Therefore, we conclude that the district court did not err in denying Staheli's petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. John P. Davis, District Judge
Kenyon Kay Staheli
Attorney General Brian Sandoval/Carson City
Nye County District Attorney/Tonopah
Nye County Clerk