

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, THE HONORABLE JOHN S.
MCGROARTY, DISTRICT JUDGE,
Respondents,
and
NIVALDO CRAWFORD,
Real Party in Interest.

No. 44570

FILED

MAR 04 2005

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

ORDER DENYING PETITION

This original petition for a writ of prohibition or mandamus challenges an order of the district court denying the State's motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

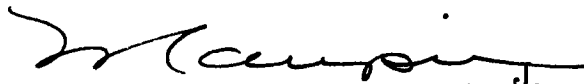
Having reviewed the petition and the supporting documentation, we have concluded that our intervention by way of extraordinary writ is not warranted at this time. A petition for extraordinary relief may issue where there is no plain, speedy, and adequate remedy at law.¹ An order denying a post-judgment motion to modify a sentence is an appealable determination.² In this case, the State

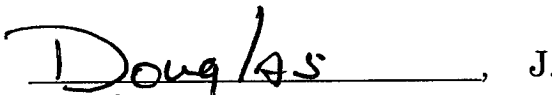
¹See NRS 34.330 (prohibition); NRS 34.170 (mandamus).

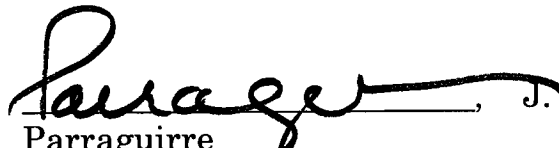
²See, e.g., Passanisi v. State, 108 Nev. 318, 831 P.2d 1371 (1992) (holding that a motion to modify a sentence is the functional equivalent of
continued on next page . . .

had a plain, speedy, and adequate remedy at law by way of an appeal, but it failed to perfect a timely appeal from the district court's order of October 8, 2004, denying its motion to correct appellant's sentence. Under these circumstances, we deny the State's petition.

It is so ORDERED.


Maupin


Douglas


Parraguirre

cc: Hon. John S. McGroarty, District Judge
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Law Office of Benson Lee, Esq.
Clark County Clerk

... continued

a motion for a new trial and an order granting or refusing a new trial is independently appealable by the defendant or the State).