

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE J. SMITH, JR.,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK,
Respondent,
and,
PHILIP J. KOHN, CLARK COUNTY
PUBLIC DEFENDER
Real Party in Interest.

No. 45656

FILED

AUG 31 2005

J. Richards

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This proper person original petition for a writ of mandamus seeks to compel the Eighth Judicial District Court to acknowledge petitioner's notice of appeal from a justice's court order entered on or around May 20, 2005. Petitioner asserts merely that he submitted a notice of appeal to both the county clerk and the justice's court clerk, but has received "no response."

Petitions for a writ of mandamus must be accompanied by affidavit or verification and proof of service.¹ And under NRAP 21(a), a petition for extraordinary relief must contain, among other things, statements of "the facts necessary to an understanding of the issues presented by the application," the issues presented and the relief sought, and the reasons why the writ should issue, as well as copies of any necessary parts of the record.² Thus, because a petitioner bears the

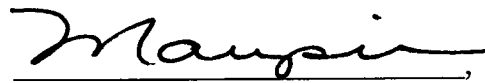
¹See NRS 34.170; NRAP 21(a).

²See Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 844 (2004).


burden of demonstrating that extraordinary relief is warranted,³ he must provide the court with any and all materials that are “essential to an understanding of the matters set forth in the petition.”⁴ Since this court is unable to properly evaluate petitions that fail to comply with NRAP 21(a), such petitions must be denied.⁵

In this instance, petitioner has failed to comply with the above requirements. Further, from the district court’s docket entries, it appears that the court received petitioner’s notice of appeal from the justice’s court on May 26, 2005.⁶ Accordingly, extraordinary relief is not warranted, and we

ORDER the petition DENIED.⁷


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

³Id.

⁴NRAP 21(a).

⁵Pan, 120 Nev. at 224, 88 P.3d at 844 (quoting NRAP 21(a)).

⁶See Smith v. Kohn, Dist. Ct. Case No. A504609.

⁷NRAP 21(b). We make no comment on whether petitioner’s notice of appeal was properly filed in accordance with the applicable justices’ courts’ rules of civil procedure, see JCRCP 98. Although appellant was not granted leave to file papers in proper person, see NRAP 46(b), we have received his “opposition to court filing fees.” Nonetheless, we note that petitioner’s failure to pay the filing fee constitutes an additional basis for denying the writ petition. NRAP 21(e).

cc: Hon. Lee A. Gates, District Judge
Willie J. Smith Jr.
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk