

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILIP J. ARDOIN A/K/A PHILLIP J.  
ARDOIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45783

**FILED**

**AUG 22 2006**

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a petition for a writ of mandamus. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

On June 29, 2005, appellant filed a proper person petition for a writ of mandamus in the district court. On September 19, 2005, the district court denied the petition. This appeal followed.

In his petition, appellant sought an order directing his former trial counsel, Mr. Jonathan MacArthur, to send him the following documents: (1) search warrant; (2) jury instructions; (3) all exhibits; (4) information concerning the search; (5) grand jury transcripts; and (6) all notes. Appellant received a copy of his case file from counsel, but these documents were not included in the case file. Appellant believed that the documents were not included because counsel was "CONCEALING, DELAYING and/or WITHHOLDING this most essential information."

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 or to control an arbitrary or capricious exercise of discretion.<sup>1</sup> A petition for an extraordinary writ is addressed to the sound discretion of the court.<sup>2</sup>

Based upon our review of the record on appeal, we conclude that the district court did not abuse its discretion in denying the petition. The record on appeal indicates that Mr. MacArthur sent appellant his case file twice—the second time the case file was sent to appellant by registered mail. Appellant failed to demonstrate that the documents listed above were part of the case file, and thus, he failed to demonstrate that his former trial counsel was withholding the documents. It appears that the district court sent the jury instructions to appellant. The district court further specifically concluded that appellant was not entitled to the exhibits. Therefore, we affirm the order of the district court.

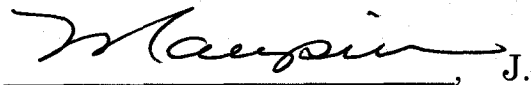
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<sup>1</sup>NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).


<sup>2</sup>State ex rel. Dep't Transp. v. Thompson, 99 Nev. 358, 662 P.2d 1338 (1983).

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>3</sup> Accordingly, we

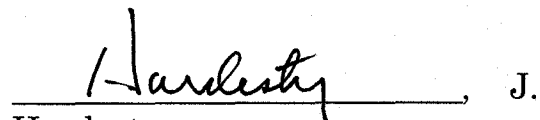
ORDER the judgment of the district court AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Stewart L. Bell, District Judge  
Philip J. Ardoin  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>3</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).