

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN NICKERSON,
Petitioner,
vs.
STAGECOACH ADVISORY BOARD,
A/K/A STAGECOACH ADVISORY
COUNCIL,
Respondent.

No. 46556

FILED

FEB 23 2006

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

In this original proper person petition for a writ of mandamus, petitioner asks this court to compel respondent to “cease and desist with all activities and recent appointments of the Stagecoach Advisory Board and to hold a special election conforming to the by-laws and Nevada Revised Statutes pertaining to board elections of advisory board members and all other such advisory agencies as clearly defined in the statutes.” Petitioner also seeks “costs, interest, attorney fees if any, and other such remedies as may be appropriate.”

According to petitioner, after he was nominated to fill a vacant seat on the respondent advisory board, a board member challenged the nomination on residency grounds and defamed petitioner by declaring him an ineligible “non-candidate.” Petitioner maintains that the statement, which was published in a local newspaper, cost him the “opportunity to participate in a fair and equal election process.” He asserts that, prior to the election, numerous board bylaws and state statutes governing election

procedures “were not posted and were violated” and that he has suffered “significant damages” as a result of respondent’s actions. Maintaining that there exists no adequate legal remedy available to “compel [r]espondents to comply with the dictates of their offices,” or to prevent further harm to petitioner or to compensate him for his damages, he petitions this court for a writ of mandamus.

A writ of mandamus may issue to compel a government body to perform a legally mandated act, or to compel a party’s admission to an office to which he is entitled.¹ A mandamus petition seeks an extraordinary remedy and is properly granted only when there is no plain, adequate, and speedy legal remedy, or there are either urgent circumstances or important legal issues that need clarification.² Because it is petitioner’s burden to demonstrate that extraordinary relief is warranted, he must provide this court with a statement of facts necessary to understand all issues raised, and attach to his petition all documents necessary for this court to render its decision.³ Whether a writ of

¹NRS 34.160

²NRS 34.170; State, Div. Child & Fam. Servs. v. Dist. Ct., 120 Nev. 445, 449, 92 P.2d 1239, 1242 (2004).

³NRAP 21(a); Pan v. Dist. Ct., 120 Nev. 222, 228-29, 88 P.3d 840, 844 (2004) (noting that this court’s review in a writ proceeding is limited to the petition and accompanying documents and, therefore, if essential information is not provided, there is no way to properly evaluate the petition).

mandamus will issue is purely discretionary with this court,⁴ and this court generally will not exercise its discretion to consider mandamus petitions presenting factual, rather than legal issues.⁵

Here, petitioner asks this court to issue a mandate compelling respondent to “cease and desist” engaging in its activities and proceeding with its recent appointment, and to hold a special election in accordance with its bylaws and state statutes governing board elections. He grounds his petition on a defamation allegation and on claims that respondent violated undefined board bylaws and state statutes. Although petitioner contends that he has sustained “significant damages,” he fails to define his damages or assert which bylaws and statutes respondents have allegedly violated. Thus, he has not demonstrated that the law requires compelling the board to act in the manner requested.⁶ Petitioner’s factual statement is inadequate for a necessary understanding of all of the issues raised, and he has failed to provide any information or attach any documents demonstrating that extraordinary relief is warranted.⁷ Moreover, petitioner requests extraordinary relief based on claims that likely would

⁴Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).


⁵Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981).


⁶See NRS 34.160; Mineral County v. State, Dep’t. of Conserv., 117 Nev. 235, 242-43, 20 P.3d 800, 805 (2001).

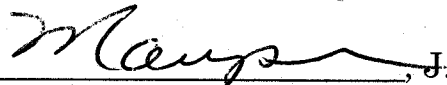
⁷See NRAP 21(a); Pan, 120 Nev. at 228-29, 88 P.3d at 844.


require a factual inquiry and, thus, if petitioner wishes to pursue such claims, he should first seek relief in the district court.⁸ Accordingly, we

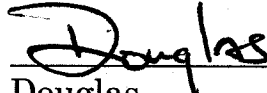
ORDER the petition DENIED.⁹

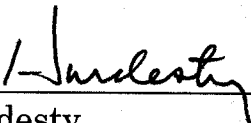

_____, C.J.
Rose

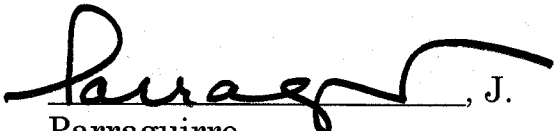

_____, J.
Becker


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: John Nickerson
Lyon County District Attorney

⁸Round Hill, 97 Nev. at 604, 637 P.2d at 536; see University Sys. v. Nevadans for Sound Gov't, 120 Nev. 712, 721 n. 8, 100 P.3d 179, 186 n. 8 (2004).

⁹NRAP 21(b) (providing that this court has the discretion to deny a mandamus petition without ordering the respondent to file an answer).