

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL PITZEL,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
DISTRICT JUDGE,

Respondents,

and

SOFTWARE DEVELOPMENT AND
INVESTMENT OF NEVADA, D/B/A
TRAFFIC-POWER.COM, A NEVADA
CLOSELY HELD CORPORATION;
RICHARD SPLAIN; AND MATTHEW
MARLON,

Real Parties in Interest.

No. 48678

FILED

JAN 11 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original proper person petition for a writ of mandamus challenges the district court's denial of various motions filed by petitioner, including his motions for reconsideration of an April 12, 2006 district court order, to defer the January 3, 2007 trial date, to extend discovery deadlines, and to compel discovery and for sanctions.¹

A writ of mandamus is available to compel the performance of an act that the law requires, or to control an arbitrary or capricious

¹This petition was transmitted to this court by facsimile on January 3, 2007, and received by mail the following day.

exercise of discretion.² But mandamus is an extraordinary remedy, and the decision to entertain such a petition is addressed to this court's sole discretion.³ Petitioner, moreover, bears the burden of demonstrating that extraordinary relief is warranted.⁴

Having considered the petition and accompanying documentation, we conclude that petitioner has failed to demonstrate that our extraordinary intervention is warranted. In particular, to the extent that petitioner challenges the district court's denial of his request to defer the January 3, 2007 trial date and his various motions concerning discovery, because trial appears already to have commenced—if not concluded—this matter appears moot.⁵

Moreover, with respect to petitioner's remaining challenge, because trial in the underlying matter ostensibly has commenced,

²See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

³See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

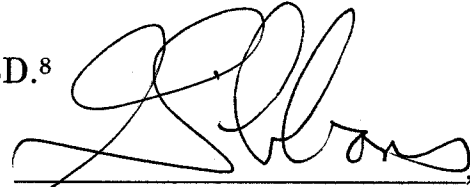
⁴Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004); cf. NRAP 21(a) (noting that an extraordinary writ petition "shall contain . . . copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition").

⁵University Sys. v. Nevadans for Sound Gov't, 120 Nev. 712, 720, 100 P.3d 179, 186 (2004) ("[T]he duty of every judicial tribunal is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles of law which cannot affect the matter in issue before it." (quoting NCAA v. University of Nevada, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981))).

petitioner appears to have an adequate and speedy legal remedy in the form of an appeal from any ensuing adverse final judgment.⁶ And petitioner has failed to demonstrate otherwise.⁷

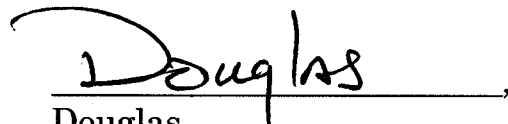
Accordingly, we

ORDER the petition DENIED.⁸



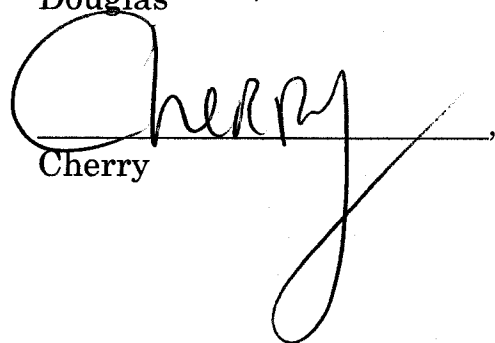
Gibbons

J.



Douglas

J.



Cherry

J.

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Michael Pitzel
Gentile DePalma, Ltd.
Clark County Clerk

⁶See Pan, 120 Nev. at 224, 88 P.3d at 841 (recognizing that an appeal is generally an adequate legal remedy precluding writ relief).

⁷See id. at 228, 88 P.3d at 844

⁸NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).