

IN THE SUPREME COURT OF THE STATE OF NEVADA

LESLIE M. CHOKA,
Petitioner,
vs.
CARSON CITY JUSTICE COURT,
Respondent,
and
CARSON CITY SHERIFF,
Real Party in Interest.

No. 48787

FILED

MAR 21 2007

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original proper person petition for a writ of mandamus challenges the justice court's alleged refusal to file petitioner's notice of appeal.

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,¹ or to control a manifest abuse of discretion.² Mandamus is an extraordinary remedy, and it is within this court's discretion to determine if a petition will be considered.³ Here, petitioner seeks to compel the clerk of the Carson City Justice Court to file his notice of appeal from a Justice

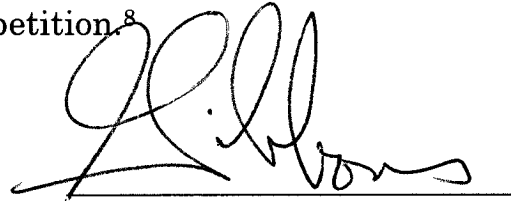
¹See NRS 34.160.

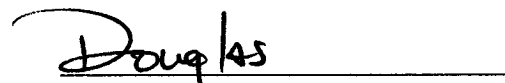
²See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

³See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

Court judgment.⁴ Whether the justice court refused to file petitioner's notice of appeal, as petitioner contends, raises factual issues which this court is ill suited to resolve.⁵ Petitioner should therefore seek writ relief from the district court.⁶ If aggrieved by the district court's decision, petitioner may then appeal the district court's decision to this court.⁷ Accordingly, as we conclude that our intervention by way of extraordinary relief is not warranted, we deny the petition.⁸

It is so ORDERED.⁹


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

⁴Although petitioner asks that the First Judicial District Court be directed to accept the appeal, because petitioner's appeal must be filed in the justice court, see JCRCP 72(a), petitioner must seek to compel the clerk of the justice court to file the notice of appeal.

⁵Round Hill, 97 Nev. 601, 637 P.2d 534.

⁶Id. see also NRS 34.160.

⁷Round Hill, 97 Nev. 601, 637 P.2d 534.

⁸See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

⁹We conclude that petitioner has demonstrated good cause and therefore we grant petitioner's motion to proceed in forma pauperis and we waive the filing fee. See NRAP 21(e). Additionally, the clerk of this court shall modify the caption to conform with the caption on this order.

cc: Leslie M. Choka
Carson City District Attorney
Carson City Justice Court Clerk
Carson City Clerk