

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
MAJOR A. RIDDLE.

No. 49527

NANCY RIDDLE,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
KATHY A. HARDCASTLE, DISTRICT
JUDGE,

Respondents,

and

DEBRA ILLUNGA AND LAWRENCE
CROYSDILL,
Real Parties in Interest.

FILED

JAN 08 2008

TRACIE K. LIKEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

This is a petition for a writ of mandamus or prohibition challenging district court orders appointing co-administrators and awarding attorney fees in a probate matter.

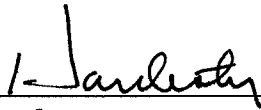
A writ of mandamus is available to compel the performance of an act that the law requires, or to control an arbitrary or capricious exercise of discretion.¹ The counterpart to mandamus, a writ of prohibition, is available to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of its

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

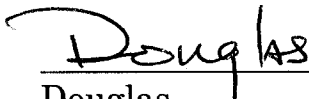
jurisdiction.² Writ petitions are addressed to the sound discretion of this court.³ Further, such writs may issue only when there is no plain, speedy, and adequate remedy at law.⁴

Here, the orders that petitioner seeks to challenge were appealable under NRS 155.190(1) (order granting letters of administration) and under NRS 155.190(10) (order directing or allowing attorney fees). A writ petition, however, is not a substitute for an appeal, and is not available to remedy an untimely appeal.⁵ Under these circumstances, our intervention by way of extraordinary relief is not warranted. We therefore deny the petition.⁶

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

²NRS 34.320.

³Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

⁴NRS 34.170; NRS 34.330.

⁵See Pengilly v. Rancho Sante Fe Homeowners, 116 Nev. 646, 647-48 n.1, 5 P.3d 569, 570 n.1 (2000) (noting that if appellate jurisdiction is proper, writ relief is inappropriate because an appeal is an adequate remedy); Pan v. Dist. Ct., 120 Nev. 222, 224-25, 88 P.3d 840, 841 (2004) (stating that writ relief is not available to correct an untimely notice of appeal).

⁶See NRAP 21(b); Smith, 107 Nev. at 677, 818 P.2d at 851.

cc: Hon. Kathy A. Hardcastle, District Judge
Branton & Sullivan
Boggess & Harker
Solomon Dwiggin & Freer
Brian C. Tanko
Eighth District Court Clerk