

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN M. DE LONG,  
Petitioner,  
vs.  
THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE, THE HONORABLE JEROME  
M. POLAHA, DISTRICT JUDGE,  
Respondents,  
and  
BRIAN CRAIG PHELPS,  
Real Party in Interest.

No. 49695

FILED

AUG 08 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY A. Alvarado  
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This proper person original petition for a writ of mandamus purports to challenge district court orders denying petitioner's motions for summary judgment and refusing to dissolve a prejudgment writ of attachment.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse or arbitrary or capricious exercise of discretion.<sup>1</sup> Mandamus, moreover, is an extraordinary remedy, and the decision to entertain such a petition is addressed to our sole discretion.<sup>2</sup>

---

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

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

We generally will not exercise our discretion to consider petitions for extraordinary writ relief that challenge district court orders denying motions for summary judgment, unless summary judgment is clearly required by a statute or rule, or an important issue of law requires clarification.<sup>3</sup> Even then, a writ may issue only when petitioner has no plain, speedy, and adequate legal remedy,<sup>4</sup> and this court has consistently held that an appeal is generally an adequate legal remedy precluding writ relief.<sup>5</sup> To demonstrate that our extraordinary intervention is warranted is petitioner's burden,<sup>6</sup> which includes, among other things, providing this court with any and all documentation that may be essential to understand the matters the petition sets forth.<sup>7</sup>

Petitioner has not met his burden. First, to the extent that petitioner challenges any district court order denying his motion for summary judgment, petitioner has failed to demonstrate that his petition fits firmly within any exceptions to this court's general policy to decline considering such petitions. Second, to the extent petitioner challenges any order refusing to dissolve a writ of attachment, none of the documents before us reveal that such an order has been entered.

Additionally, if any order refusing to dissolve a pre-judgment writ of attachment has been entered, NRAP 3A(b)(2) permits an appeal

---

<sup>3</sup>Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).

<sup>4</sup>NRS 34.170.

<sup>5</sup>See Pan v. Dist Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).


<sup>6</sup>Id. at 228, 88 P.3d at 844.

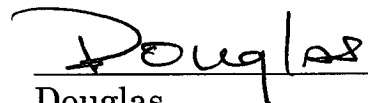
<sup>7</sup>Id. at 228-29, 88 P.3d at 844.

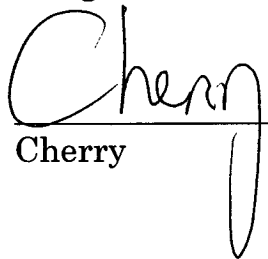
from such an order. Similarly, NRAP 3A(b)(1) permits an appeal from any adverse final judgment entered in the case. Here, the availability of those rights to appeal constitutes an adequate legal remedy precluding writ relief.<sup>8</sup>

Accordingly, we

ORDER the petition DENIED.<sup>9</sup>

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Jerome Polaha, District Judge  
Stephen M. De Long  
Brian Craig Phelps  
Washoe District Court Clerk

---

<sup>8</sup>And we are confident that the district court will address any outstanding matters in the underlying action as its caseload and the parties permit.

<sup>9</sup>NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).