

IN THE SUPREME COURT OF THE STATE OF NEVADA

CURTIS COE,
Petitioner,

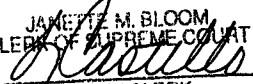
vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
JAMES M. BIXLER, DISTRICT JUDGE,
Respondents,
and
MARCO CENTENO-ALVARES,
Real Party in Interest.

No. 49954

FILED

AUG 09 2007

JAMETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order granting a motion in limine to exclude certain evidence and any testimony regarding that evidence.

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, or to control a manifest abuse or an arbitrary or capricious exercise of discretion.¹ Mandamus generally will not issue when the petitioner has a plain, speedy, and adequate remedy at law, such as an appeal.² Because mandamus is an extraordinary remedy, whether a petition will be considered is entirely within this court's discretion.³

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

²NRS 34.170; See Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

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

Petitioner, moreover, bears the burden of demonstrating that extraordinary relief is warranted.⁴

Generally, this court will not exercise its discretion to review, through petitions for extraordinary relief, alleged errors in discovery pertaining to matters within the lower court's jurisdiction; instead, the aggrieved party may raise such issues in an appeal from any adverse final judgment.⁵ Thus, unless a discovery order might result in irreparable injury, such as a blanket discovery order issued without regard to relevance or a discovery order requiring disclosure of privileged information, this court will decline to consider it in a writ petition.⁶

Having considered the petition and accompanying documentation, we are not persuaded that our extraordinary intervention is warranted. In the challenged order, the district court ruled that a surveillance video produced after the discovery deadline would not be admitted into evidence at trial and, likewise, that no testimony concerning the video would be permitted. Because the challenged order is not a blanket discovery order or an order requiring the disclosure of privileged information and petitioner has not shown irreparable injury, it appears that petitioner has an adequate legal remedy in the form of an appeal from any adverse final judgment.⁷ Thus, as the district court's order

⁴Pan, 120 Nev. at 228, 88 P.3d at 844.

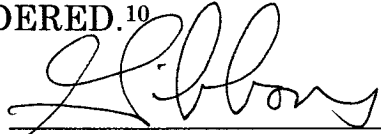
⁵See Schlatter v. District Court, 93 Nev. 189, 561 P.2d 1342 (1977).

⁶Hetter v. District Court, 110 Nev. 513, 515, 874 P.2d 762, 763 (1994).

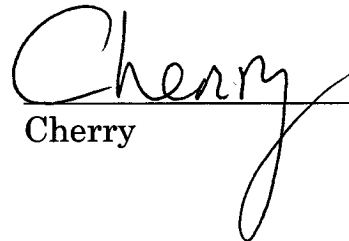
⁷See NRAP 3A(a) (providing that an aggrieved party may appeal); NRAP 3A(b)(1) (permitting an appeal from a final judgment); Pan, 120
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granting real party in interest's motion in limine to exclude evidence not produced within the pre-set discovery deadline is not the type of discovery order that warrants our extraordinary intervention,⁸ we deny the petition.⁹

It is so ORDERED.¹⁰


_____, J.
Gibbons


_____, J.
Hardesty


_____, J.
Cherry

... continued

Nev. at 224, 88 P.3d at 841 (recognizing an appeal as an adequate legal remedy precluding writ relief).

⁸Although petitioner argues that the district court acted arbitrarily by excluding the surveillance video, he failed to cite to any relevant, binding legal authority to support his assertion and also failed to include with his petition copies of the motion in limine, the opposition thereto, and any other parts of the record that would provide this court with an understanding of the matter set forth in the petition. See Pan, 120 Nev. at 228, 88 P.3d at 844; accord NRAP 21(a) (noting that an extraordinary writ petition "shall contain . . . copies of any . . . parts of the record which may be essential to an understanding of the matters set forth in the petition").

Petitioner's reliance on an unpublished order entered by this court in an unrelated case does not constitute precedent, and it is improper for petitioner to cite to such an order as legal authority. See SCR 123 (prohibiting citation to unpublished orders, except in two circumstances not applicable here).

⁹See NRAP 21(b); Smith, 107 Nev. at 677, 818 P.2d at 851.

¹⁰Petitioner's motion for an emergency stay pending this court's consideration of this petition is denied as moot.

cc: Hon. James M. Bixler, District Judge
Ranalli & Zaniel, LLC
Ganz & Hauf
Eighth District Court Clerk