

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND, THE HONORABLE  
VALERIE ADAIR, DISTRICT JUDGE,  
Respondents,

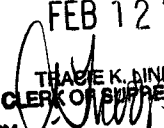
and

CYNTHIA M. THOMAS,  
Real Party in Interest.

No. 50712

**FILED**

FEB 12 2008

THABE K. NINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER DENYING PETITION FOR  
WRITS OF MANDAMUS AND PROHIBITION

This original petition for writs of mandamus and prohibition challenges a district court order that partially granted judicial review in an employment discrimination matter and reinstated the matter before the Employee Management Relations Board (EMRB) for further proceedings under NRS Chapter 288.

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,<sup>1</sup> or to control a manifest abuse or an arbitrary or capricious exercise of discretion.<sup>2</sup> The counterpart to a writ of mandamus, a writ of prohibition is available when a district court acts without or in excess of its jurisdiction.<sup>3</sup> Although the decision to entertain a petition for a writ of mandamus or prohibition is addressed to our sole discretion,<sup>4</sup> we have explained that neither writ will issue when petitioner has a plain, speedy, and adequate remedy in the ordinary course of law.<sup>5</sup> Usually, an opportunity to challenge an adverse final decision before a higher authority constitutes an adequate and speedy legal remedy precluding writ relief.<sup>6</sup>

We have considered this petition, including petitioner's arguments as to why this court's immediate review of this matter is appropriate, but we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time, as petitioner has available a sufficiently adequate and speedy legal remedy in the form of a district court petition for judicial review of any adverse EMRB decision,

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<sup>1</sup>NRS 34.160; see also Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

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

<sup>3</sup>State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 146-47, 42 P.3d 233, 237 (2002); NRS 34.320.

<sup>4</sup>Id.


<sup>5</sup>Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004); NRS 34.170; NRS 34.330.


<sup>6</sup>See, e.g., Pan, 120 Nev. at 224, 88 P.3d at 841.

and then may appeal to this court from any adverse district court decision.<sup>7</sup> Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Maupin

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

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Valerie Adair, District Judge  
Marquis & Aurbach  
Shook & Stone, Chtd.  
Eighth District Court Clerk

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<sup>7</sup>While our order dismissing a related appeal suggested that extraordinary writ relief regarding this matter would be unavailable because a petition to the district court for judicial review of any adverse EMRB decision appeared to constitute an adequate and speedy legal remedy, in our order denying rehearing in that appeal, we indicated that nothing in the previous order prevented appellant from filing a separate petition for extraordinary relief demonstrating why this court's intervention at this time is appropriate. Las Vegas Metro. Police Dep't v. Thomas, Docket No. 47518 (Order Dismissing Appeal, October 12, 2007, and Order Denying Rehearing, December 4, 2007). But after considering the arguments raised in this ensuing petition as to why we should intervene in this matter, we conclude that petitioners have not demonstrated that judicial review of any adverse EMRB decision would be an inadequate remedy. And if the EMRB decides in petitioner's favor, the issues raised in this petitioner would become inconsequential.