

IN THE SUPREME COURT OF THE STATE OF NEVADA

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, LOCAL 14, AFL-CIO, AN  
EMPLOYEE ORGANIZATION,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
KENNETH C. CORY, DISTRICT  
JUDGE,

Respondents,

and


EDUCATION SUPPORT EMPLOYEES  
ASSOCIATION, A NEVADA  
NONPROFIT CORPORATION; STATE  
OF NEVADA, LOCAL GOVERNMENT  
EMPLOYEE-MANAGEMENT  
RELATIONS BOARD, AN AGENCY OF  
THE STATE OF NEVADA; AND CLARK  
COUNTY SCHOOL DISTRICT, A  
COUNTY SCHOOL DISTRICT,

Real Parties in Interest.

No. 50998

**FILED**

FEB 11 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF  
CERTIORARI, MANDAMUS, OR OTHER EXTRAORDINARY RELIEF

This original petition for a writ of certiorari, mandamus, or other extraordinary relief challenges a January 17, 2008 district court order granting in part and denying in part a petition for judicial review, and remanding the matter to the Employee Management Relations Board (EMRB) for a run-off election.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse or an arbitrary or capricious exercise of discretion.<sup>1</sup> A writ of certiorari is available to cure jurisdictional excesses.<sup>2</sup> The decision to entertain a petition requesting extraordinary relief, however, is within this court's sole discretion.<sup>3</sup> Generally, an extraordinary writ may issue only when petitioner has no plain, speedy, and adequate legal remedy,<sup>4</sup> and we have consistently held that an appeal is generally an adequate legal remedy precluding writ relief.<sup>5</sup>

Here, petitioner has filed both this petition for extraordinary writ relief and a notice of appeal,<sup>6</sup> asserting that it is unclear whether the district court's January 17 order constitutes a final judgment appealable under NRAP 3A(b)(1), in light of the order's remand for a run-off election. Typically, an order of remand is not appealable as a final judgment because it resolves neither the claims nor the rights and liabilities of any

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<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 NRS 34.020(2).

<sup>3</sup>Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991); Dangberg Holdings v. Douglas Co., 115 Nev. 129, 978 P.2d 311 (1999).

<sup>4</sup>NRS 34.020; NRS 34.170.

<sup>5</sup>See Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004); see also NRS 34.020(2).

<sup>6</sup>See Int'l Bhd. of Teamsters v. Educ. Support Employees Ass'n, Docket No. 51010.

party.<sup>7</sup> In this instance, however, the district court's January 17 order appears to have resolved all of the issues before the court, which concerned petitioner's substantive rights stemming from the EMRB election results certified in June 2006; the order "remands" to the EMRB not for any further substantive action with respect to those election results, but instead, for a new election.<sup>8</sup> Consequently, because the district court's January 17 order resolved all of the issues before the court and did not remand the matter to the EMRB for further substantive proceedings, it is appealable as a final order.<sup>9</sup>

Although petitioner also suggests that an appeal would not be speedy, we note that petitioner may seek a stay of the district court's order pending appeal and/or move to have the appeal expedited.<sup>10</sup> Accordingly,

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<sup>7</sup>See, e.g., Ayala v. Caesars Palace, 119 Nev. 232, 71 P.3d 490 (2003); Clark County Liquor v. Clark, 102 Nev. 654, 657-58, 730 P.2d 443, 446 (1986); Pueblo of Sandia v. Babbitt, 231 F.3d 878, 880 (D.C. Cir. 2000); see also Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (clarifying that a final judgment disposes of all the issues presented in the case, leaving nothing for the future consideration of the court, except for certain post-judgment issues).

<sup>8</sup>Bally's Grand Hotel v. Reeves, 112 Nev. 1487, 1488-89, 929 P.2d 936, 937 (1996) (noting that this court takes a "functional view of finality," seeking to avoid piecemeal litigation, and thus, unlike an order remanding for further substantive proceedings, an order that resolves the single issue before the court, regarding substantive rights, and remands for a mere calculation of benefits, is appealable as a final judgment).

<sup>9</sup>Id.; NRAP 3A(b)(1).

<sup>10</sup>See NRAP 8(a) (requiring, generally, that parties first apply to the district court for a stay pending appeal).

as petitioner has an adequate and speedy legal remedy precluding writ relief, we

ORDER the petition DENIED.<sup>11</sup>

Maupin, J.  
Maupin

Cherry, J.  
Cherry

Saitta, J.  
Saitta

cc: Hon. Kenneth C. Cory, District Judge  
McCracken, Stemerman & Holsberry  
Attorney General Catherine Cortez Masto/Carson City  
Attorney General Catherine Cortez Masto/Las Vegas  
Clark County School District Legal Department  
Dyer, Lawrence, Penrose, Flaherty & Donaldson  
Eighth District Court Clerk

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<sup>11</sup>In light of this order, petitioner's request for a stay is denied as moot.